
Appeal Decision

Site visit made on 12 May 2022

by Gary Deane BSc (Hons) DipTP MRTPI

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

Decision date: 27 May 2022

Appeal Ref: APP/W2465/Z/22/3295565

195A Humberstone Road, Leicester LE5 3AQ

- 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 against the decision of Leicester City Council.
 - The application Ref 20212594, dated 6 October 2021, was refused by notice dated 2 February 2022.
 - The advertisement proposed is the replacement of existing backlight 48 sheet advertisements with digital 48 sheet advertisements.
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Decision

1. The appeal is allowed, and express consent is granted for the replacement of existing backlight 48 sheet advertisements with digital 48 sheet advertisements as applied for. The consent is for a maximum period of five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:
 - 1) The maximum luminance of the advertisements hereby permitted shall not exceed 300 candelas per square metre.
 - 2) The illumination of the advertisements hereby permitted shall not be intermittent or flashing, and there shall be no changing light pattern, moving images, scrolling, sequencing of messages relating to the same product, animation, videos or full motion images or any images that resemble road signs or traffic signs.
 - 3) No individual advertisement shall be displayed for less than ten seconds.
 - 4) Any sequential change between advertisements will be smooth with no fading, swiping or other animated transition method between successive images and take place over a period of no more than one second.
 - 5) The advertisement display panel shall each have a default mechanism to switch it off in the event of malfunction or during maintenance.
 - 6) The colour of the metal frames of each display panel shall have a matte finish.

Procedural matters

2. The name of the appellant is given as Wildstone Group Limited on the planning appeal form, whereas the name appearing on the application form is Wildstone Group. As the right of appeal rests solely with the original applicant, I have proceeded on the basis that Wildstone Group is the appellant in this case.

3. The address of the site is taken from the decision notice, which provides a fuller description than that given on the application form.
4. The main parties have referred to various planning policies as well as government guidance on advertisements. The Regulations to control advertisements require that decisions be made only in the interests of amenity and public safety. As such, the planning policies cited cannot, therefore, be decisive, but I have taken them into account as a material consideration.

Background

5. The proposal is to replace two internally illuminated hoardings, each in an elevated position to one side of Humberstone Road, which is a busy route to and from the City Centre, with two digital displays. The new screens would be the same size and the displays placed in a similar position to their existing counterparts, with one facing eastbound traffic on the off-side and the other facing westbound traffic on the nearside. These advertisements are referred to in the evidence as Sign C and Sign D respectively. I shall do likewise.

Main issue

6. The Council raises no issue in relation to amenity for both advertisements or to public safety insofar as Sign D is concerned, subject to various conditions. From the submitted evidence, I have no reason to disagree with that finding. Therefore, the main issue is the effect of Sign C on public safety, with particular regard to highway safety for users of Humberstone Road.

Reasons

7. Most road users approaching the site along Humberstone Road from the west would see Sign C from some distance, roughly coming into view near the Dysart Way junction. From this point, there would be ample time for the content of the display to be readily assimilated even if the image changes more than once in the time taken for vehicles to approach and then pass the advertisement.
8. That the new advertisement would also be seen in a predominantly commercial setting, within which large roadside signs are not unexpected, would also mean that the proposal would come as no surprise to most road users. There is, for instance, a large digital roadside display facing Humberstone Road on the opposite side of the railway bridge adjacent to the site. Like Sign C, this existing advertisement faces oncoming traffic travelling on the opposite side of the carriageway, which in my experience, is not an unusual arrangement.
9. Furthermore, the images displayed on Sign C would contain no movement or animation with a smooth transition between each display taking no more than one second. A restriction on the maximum luminance of the new advertisements would prevent undue glare or dazzle to road users especially during the hours of darkness.
10. From the Dysart Way junction, Sign C would have a very modest presence in the streetscape given the generous separation distance involved and the wide vista within which it would be seen, which includes numerous advertisements. Drivers would need to be much closer to the signage to be able to appreciate the advertisements and detect changes to the display. In those circumstances,

displays on Sign C changing at a rate of no more than one advertisement per 10 seconds, as sought, would not draw the eye of most road users.

11. Beyond this junction, Humberstone Road alters on both sides of the main carriageway near to the site. For eastbound traffic, two lanes merge into one while an extra lane is created for those traveling in the opposite direction. Eastbound road users may also encounter vehicles slowing down and waiting in the main carriageway to turn right into the car wash facility where both displays are to be located.
12. The approach to the site along this section of Humberstone Road is reasonably straight with good forward visibility and the manoeuvre from one lane to another is not particularly demanding on the driver. To my mind, vehicles slowing down and waiting to turn right at this point would be readily visible to other road users. There are also white painted arrows on the main carriageway and road signs that give advance notice of the forthcoming merger into one lane. I also saw that vehicle speeds along this stretch of road are generally low due partly to the considerable volume of traffic using the highway.
13. In those circumstances and having driven along this section of Humberstone Road several times, I am persuaded that the demands placed on road users would not be so great that Sign C with its displays changing at the rate sought by the appellant, would be unacceptably distracting nor would it prevent road users from exercising due care and attention. In reaching this conclusion, I note that the Highway Authority has recommended that the frequency of changes to advertisements on Sign C should be no less than 30 seconds.
14. The proposal follows a similar scheme on the site that was recently refused consent at application and on appeal¹. In that case, the Inspector concluded that *"...given the prominence of the digital advertisements proposed, even a short distraction would increase the risk of collisions between vehicles manoeuvring between lanes which would cause significant harm to public safety."* Reference was also made by that Inspector to the area's general accident history and to anecdotal evidence of incidents where cars had difficulty merging that contributed to the highway safety concerns raised in that case.
15. The appellant's Highways Technical Note No 01 (HTN), dated October 2021, addresses these and several other transport related matters. In particular, the HTN contains a detailed analysis of the accident data for the area that was not before the previous Inspector. Of the 16 reported accidents over the most recent 5 years only one was close to the site. In that case, a cyclist collided with the rear of a bus as it slowed down which resulted in a slight injury with no obvious indication that it was the outcome of driver distraction. The HTN also refers to a remarking of the white lines on the road and improved signage to encourage drivers to merge into one lane well in advance of the bus lane.
16. Having regard to all the evidence before me, including the HTN, I am satisfied that Sign C with frequently changing displays would not be unacceptably distracting to road users. As such, it would not be harmful to public safety.
17. The Planning Practice Guidance (the Guidance) states that all advertisements are intended to attract attention but proposed advertisements at points where

¹ Ref APP/W2465/Z/19/3228878 dated 17 July 2019

drivers need to take more care are more likely to affect public safety. The Guidance lists the main types of advertisements that may cause danger to road users. Considering all the above points, the proposal would not cause a danger to road users as described in the Guidance and that there would no material harm to highway safety.

18. Reference is made to advertisements elsewhere, with a number of case studies detailed in the grounds of appeal. To reiterate, it is the particular conditions along Humberstone Road on the approach to Sign C that are at issue in this case. These circumstances do not appear to be the same or very similar to those of the cases cited. As such, I attach limited weight to these other examples in support of the appeal. In any event, the proposal has been assessed on its own merits.

Conditions

19. I shall impose the five standard conditions set out in the Regulations. The consent is for a five-year time period, as sought. Additionally, conditions are imposed to prevent intermittent illumination of the advertisement and any changing light patterns, and also to control the images displayed in the interests of visual amenity and highway safety.
20. For the same reasons, a condition is imposed to set the maximum luminance of the advertisement at 300 candelas per sqm, as sought in the original application. A condition is imposed to require that the transition between one advertisement and another is quick and smooth, for highway safety. The condition relating to the default mechanism in times of malfunction or maintenance is necessary in the interests of visual amenity and public safety.
21. The Council has recommended that a condition is imposed to require that the metal frames have a matte finish. Given the prominence of the displays to the road, such a requirement would avoid the structures appearing overly conspicuous in the local street scene. This condition is therefore imposed in the interests of visual amenity.

Conclusion

22. Subject to these conditions, the appeal is allowed.

Gary Deane

INSPECTOR