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# Appeal Decision

Site visit made on 6 June 2022

**by G Robbie BA(Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 June 2022**

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**Appeal Ref: APP/W4705/Z/22/3295817**

**Cross Keys, 465 Rooley Lane, Bradford BD4 7SE**

- 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 Sapphire Ltd against the decision of City of Bradford Metropolitan District Council.
  - The application Ref 22/00107/ADV, dated 10 January 2022, was refused by notice dated 3 March 2022.
  - The advertisement proposed is Installation of 1 x 48 sheet freestanding digital advertising display unit, measuring 6.4m wide x 3.4m high, and comprising pressed metal frame and sealed LED screen.
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## Decision

1. The appeal is allowed and express consent is granted for the display of 1 x 48 sheet freestanding digital advertising display unit, measuring 6.4m wide x 3.4m high, and comprising pressed metal frame and sealed LED screen as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations, and to the following additional conditions:-
  - 1) The maximum level of illumination should be no more than 300 c/m<sup>2</sup> during hours of darkness (dusk until dawn) and 600 c/m<sup>2</sup> during daytime hours, in accordance with the terms of the Institution of Lighting Professionals, Professional Lighting Guide 2015 recommendations for maximum luminance (cd/m<sup>2</sup>).
  - 2) The luminance level of the display should be controlled by ambient environmental control, which would automatically adjust the brightness level of the screen to track the light level changes in the environment throughout the day to ensure that the perceived brightness of the display is maintained at a set level.
  - 3) The approved display should contain at all times a feature that will turn off the screen (i.e. show a black screen) in the event that the display experiences a malfunction or error.
  - 4) No individual advertisement on the digital screen will contain moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.
  - 5) There shall be a smooth uninterrupted transition from one image to another. Transitions shall be of not less than one second between static images, and no individual advertisement shall be displayed for a duration of less than 10 seconds.

## Background and Main Issues

2. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations), the National Planning Policy Framework (the Framework) and Planning Practice Guidance (the Guidance) all make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
3. The application was refused for two reasons; the first, dealing with matters of amenity, refers to Core Strategy<sup>1</sup> (CS) policies DS1 and DS3 whilst the second, dealing with matters of public safety, refers to CS policy DS5. I have taken these policies into account insofar as they relate to amenity and public safety, respectively.
4. The main issues are therefore the effects of the proposed freestanding 48-sheet digital advertising display unit upon i) Amenity and ii) Public safety.

## Reasons

### *Amenity*

5. The proposed digital advertising display unit with LED screen would be a freestanding, pole-mounted structure immediately adjacent to the blank gable elevation of the building to the north. The former public house, from which the appeal site takes its address, has been demolished and the site is now fenced-off with a largely open interior.
6. Rooley Lane is a well-lit, busy urban dual carriageway which runs through a predominantly, but not exclusively, commercial area. Bowling Hill Road, a short distance to the southwest of the appeal site, is a typical residential terrace but the area to the appeal site's south and, particularly, east are dominated by commercial buildings incorporating a mix of advertisement and signage schemes. A series of four 48-sheet 'paper-and-paste' advertisement panels are located within the wider appeal site a short distance to the south of the proposed unit.
7. The appeal proposal would be positioned immediately adjacent to the blank gable elevation of the building to the north. Whilst its pole-mounted design would result in a panel mounted at a reasonable height, it would be viewed against the larger gable elevation of that building, and within the extent of the gable elevation's extremities.
8. Although the display would be a stark contrast to the otherwise muted tones of the building's weathered gable, its surface area would equate to only a limited proportion of the gable itself. However, suitably worded conditions regarding luminance would in any event provide daylight-variable control over the brightness of images. Moreover, the display's pole-mounted design would also ensure that the gable would continue to be seen below and around the display unit.
9. The display would be in view when travelling in a north-bound direction for a reasonable length of time and distance but not so long or to such a great extent as to dominate views in the manner feared by the Council. Intervening structures and landscaping, together with the subtle sweeps of the road, first

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<sup>1</sup> Local Plan for the Bradford District: Core Strategy Development Plan Document – adopted July 2017

one way then the other, would limit the extent of longer approach views and then draw the eye away from the sign, respectively. In a well-lit and predominantly commercial urban setting, I am satisfied it would not be harmful to the amenity of the surrounding area.

10. There has been no suggestion that the proposed unit would cause harm to the residential amenity of occupiers of those residential properties closest, although some distance from, the appeal site. Nor, from my observations of the site and its surroundings, do I consider there to be any harm arising.
11. Thus, for the reasons I have set out, the proposed digital advertisement display would not cause harm to the amenity of the area. I have taken into account the provisions of the development plan insofar as they are material to the matter before me. There would be no conflict with CS policies DS1 or DS3 which together seek to achieve good design which is appropriate to context and local character.

#### *Public safety*

12. The proposed digital panel would face directly towards on-coming traffic on Rooley Lane and be visible to drivers over a reasonably lengthy distance. In the context of a well-lit busy urban dual carriageway in a predominantly commercial context, the presence of a digital display panel of the type for which consent is sought, would not come as a surprise even as a backdrop to the existing junction with Bowling Hill Road.
13. However, the Council's concerns with regard to public safety also extend to the proposal's relationship with the redevelopment of the wider former public house site. Multiple references to a proposed drive-through restaurant and take-away along with a proposed site layout plan<sup>2</sup> indicate the wider site's redevelopment, the access / egress for which would be located towards the site's north-eastern corner close to the proposed display. At the time of my visit the site was fenced off but otherwise vacant and open and I have no indication before me of the current status of that development.
14. Nevertheless, mindful of this the proposed display would be close to the indicated location of the access to the proposed drive-through site. Although the movement of vehicles accessing / exiting the site at the proposed junction would take place in the close context of the proposed display, from the available evidence neither the display nor the redevelopment of the wider site would alter the length of time or distance over which the display would be visible to drivers. Whilst I appreciate that that redevelopment scheme would introduce other commercial elements into the highway's visual environment, these would not be out of keeping or unexpected in an urban and predominantly commercial context.
15. I am satisfied that, on the evidence, it has not been demonstrated that the proposal would cause harm to public safety. Insofar as it is relevant to this matter, there would be no conflict with CS policy DS5 which sets out the Council's approach to creating safe and secure places which make a positive contribution to people's lives through high, quality inclusive design.

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<sup>2</sup> Appendix N to appellant's 'Statement of Case for Appeal' – 29 March 2022

## **Other Matters**

16. The Council has noted the that the nature of the advertisement would not relate to any of the nearby businesses. However, whether or not that would be the case is not relevant to the consideration of this matter as the Regulations are clear that control over the display of advertisements should be exercised only in the interests of amenity and public safety, taking account of cumulative impacts.

## **Conditions**

17. The Council has not indicated that any further conditions, other than the standard conditions<sup>3</sup>, should be imposed. It is not necessary for me to repeat the standard conditions, other than to draw the appellant's attention to their provisions as set out within the Regulations<sup>3</sup>.
18. The appellant has however indicated<sup>4</sup> that conditions could be imposed to control detailed elements of the panel's display, illumination and brightness. Given the appeal site's location adjacent to a busy urban dual carriageway such conditions are necessary in order to ensure that the proposal does not cause distraction to drivers and compromise highway safety. Such an approach would be consistent with the approach set out in the Guidance regarding advertisements.

## **Conclusion**

19. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

*G Robbie*

INSPECTOR

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<sup>3</sup> As set out at Schedule 2 of the Regulations (2007)

<sup>4</sup> 'Suggested Conditions' as set out in Planning Statement dated 10 January 2022