



Appeal Decision

Site visit made on 14 July 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2022

Appeal Ref: APP/D4635/Z/22/3298999

Advertising Right East Of 295 Willenhall Road, Wolverhampton WV1 2HY

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Air Outdoor Media Ltd against the decision of the City of Wolverhampton Council.
 - The application Ref 22/00264/ADV, dated 7 March 2022, was refused by notice dated 24 March 2022.
 - The advertisement proposed is upgrade of existing advert to support a digital 'D-Poster' advertisement.
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Decision

1. The appeal is allowed and express consent is granted for the upgrade of existing advert to support a digital 'D-Poster' advertisement as applied for. The consent is for 5 years from the date of this decision and is subject to the 5 standard conditions set out in the Regulations and the following additional conditions:-
 - 1) During the night-time, meaning the period from sunset to the following sunrise, the intensity of the illumination of the sign permitted by this consent shall be no greater than 100 cd/m². At any other time, the intensity of the illumination of the sign shall be within that recommended by the Institute of Lighting Professionals in its Professional Lighting Guide 05 (PLG 05) Brightness of Illuminated Advertisements (or its equivalent in a replacement Guide).
 - 2) The sign permitted by this consent shall only display static images and shall not display moving or flashing images.
 - 3) Changes in the display of digital advertisements on the sign permitted by this consent shall take place instantly with no sequencing, fading, swiping or merging of images.
 - 4) Digital advertisements on the sign permitted by this consent shall change no more frequently than once every ten seconds.

Main Issues

2. The Regulations confine the assessment of advertisements to issues of amenity and public safety. Development plan policies are only relevant considerations insofar as they relate to such matters. The main issues in respect of this appeal are the effect of the proposed advertisement on amenity and on public safety.

Reasons

Amenity

3. The proposed advertisement would be in an urban area, near to houses and on a main road leading to the centre of Wolverhampton. It would replace a non-digital advertisement of a similar size and position.
4. The Council is concerned over the effect of the advertisement's illumination and changing imagery on the amenity of residences in the area. The sign would be nearest to 295 Willenhall Road (No 295) and residences directly to the north. However, only the rear of the advertisement would be visible from these properties. As such, the introduction of digital advertisements would not affect the amenity of the closest dwellings.
5. The illuminated side of the sign would be seen from the row of houses to the east and on the same side of the road. However, the sign would be angled towards the highway and so its front would not directly face these properties. Moreover, the appellant has provided a light spill diagram that demonstrates only a small area directly in front of the sign would be affected by its luminosity when brightness levels are restricted to 100 cd/m². It would be reasonable to impose a condition that limits the sign's brightness to this level during the night-time to ensure light spill does not affect nearby residences. Also, to prevent overly bright displays at other times, luminance levels could be limited to the thresholds as set out in the Institute of Lighting Professionals guidance.
6. The front of the sign would face apartments on the opposite side of the road. However, despite having windows at third floor level, views of the sign from these units would be at least partly impeded by a line of trees along the highway. Moreover, the evidence indicates there would be sufficient distance between the apartments and the sign to avoid harmful light spillage. As such, the proposal would cause no harm to the amenity of the apartments.
7. No 295 would largely screen the sign in views from the west but it would be visible from a significant distance away when approaching along Willenhall Road from the east. However, the proposal would replace an existing sign and there are other similar advertisements nearby along the road. As such, it would not appear discordant to the area.
8. For these reasons, I conclude the proposed advertisement would not be harmful to amenity. In these regards, it would accord with policy EP19 of the Wolverhampton Unitary Development Plan 2006 (UDP), insofar as this is relevant to the determination of the appeal. UDP policies D4, D7, D8 and D9 are referred but these are irrelevant as they do not mention advertisements and effects on amenity.

Public safety

9. The proposed sign would be clearly seen by drivers coming from the east along Willenhall Road, although it would not be seen by those travelling in the opposite direction. In terms of visibility, the proposal would be similar to the existing sign and there is no evidence before me that shows this has prejudiced road safety as a result of driver distraction.
10. The Council's concern is that an alternating and illuminated display would be confusing and would distract drivers to the detriment of highway safety.

However, the Council has provided no research evidence to support its concerns, whereas the appellant has referred to Transport for London's Guidance for Digital Roadside Advertising and Proposed Best Practice 2013. This states that digital roadside advertising is not inherently unsafe, although it should be managed in accordance with site specific constraints of the location. To minimise possible distractions, the guidance recommends that only static images are displayed and that changes between advertisements take place instantly. The appellant and Council also agree that the frequency of changes to advertisements should be controlled to minimise the diversion of drivers' attention.

11. Willenhall Road on the approach to the site from the east is subject to a 30 mph speed limit and signs indicate the presence of speed cameras. My visit can only provide a snapshot in time but from my observations the road is quite busy but with traffic travelling at about the speed limit. There is no evidence to indicate that my observations in respect of traffic are unusual.
12. The road is quite straight with little to obstruct forward visibility and so the proposed sign would slowly become easier to see as drivers travel towards the site. Drivers' attention to the general road scene is required as it is an urban area. However, from my observations, I am satisfied that the sign would not cause sudden and dangerous distractions to drivers given the reasonably low traffic speeds and significant forward visibility. There are no nearby highway features such as a roundabout where drivers' attention is particularly important to avoid hazardous traffic movements.
13. In addition, on my visit I saw a large digital display at The Cleveland Arms pub, which is on Willenhall Road near to the site of the proposal. Also, smaller digital advertisements are incorporated at bus stop shelters on the road close to the appeal site. There is no evidence to show that such signs have caused the hazardous distraction of drivers.
14. Therefore, I conclude the proposed advertisement would not be harmful to public safety. In these regards, it would comply with UDP policy EP19.

Conditions and Conclusion

15. For the reasons set out above in respect of amenity, I attach a condition that limits the intensity of illumination. For public safety reasons, I impose conditions that prevent moving images, that require instant changes to advertisements and that set limits on the frequency of changes.
16. For the above reasons, I conclude the proposal would not be detrimental to the interests of amenity and public safety. As such, the appeal should succeed.

Jonathan Edwards

INSPECTOR