



Appeal Decision

Site visit made on 12 July 2022

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2022

Appeal Ref: APP/A1015/Z/22/3298938

Proact Stadium, 1866 Sheffield Road, Whittington Moor, Chesterfield, S41 8NZ

- 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 Mr Terry Ward (Chesterfield Football Club)) against the decision of Chesterfield Borough Council.
 - The application Ref: CHE/21/00870/ADV, dated 23 November 2021, was refused by notice dated 21 March 2022.
 - The advertisement proposed is the installation of a 1 x 48 sheet freestanding digital advertising display unit, measuring 3.2m high x 6.2m wide, and comprising pressed metal frame with sealed LED screen.
-

Decision

1. The appeal is allowed, and express consent is granted for the display of the advertisement 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 the following additional conditions:
 - 1) The maximum level of illumination shall be no more than 300 c/m2 during hours of darkness (dusk until dawn) and 600 c/m2 during daytime hours. The level of luminance of the advertisement display shall be controlled by means of ambient environmental control sensors that measure ambient light levels and automatically control the perceived brightness to within the limits set by this condition.
 - 2) The advertisement display shall 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.
 - 3) No individual advertisement on the LED screen will contain moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.
 - 4) There shall be a smooth and uninterrupted transition from one image to another. Transitions shall be instantaneous, and no individual advertisement shall be displayed for a duration of less than 10 seconds.

Main Issues

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

Reasons

3. Powers under the Regulations¹ require decisions to be made only 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 considerations.
4. The Council has referred to Policies CLP20 and CLP22 of the *Chesterfield Local adopted 2020 (LP)*. Whilst CLP20 refers to design rather than to applications for advertisement consent, I recognise that one of its underlying aims is for proposals to respond to local character and respect the local distinctiveness of its context. respect the local character and distinctiveness of their context. Policy CLP22 says development proposals will not be permitted where they would have an unacceptable impact on highway safety.
5. The proposal is for a 48-sheet freestanding digital advertising unit measuring 6.2m wide by 3.2m high, with the base of the display about 2.0m above ground level. The display would be sited close to the back of the Sheffield Road footway but within a landscaped area between the road and the Stadium car park. There are a number of trees in this landscaped area along the Sheffield Road frontage of varying maturity. The mature trees are protected under a Tree Preservation Order and the young trees are part of the landscaping scheme for the development of the Stadium site.

Amenity

6. With regard to considerations affecting amenity, Paragraph 079 of the Planning Practice Guidance (PPG) says consideration should be given to the local characteristics of the neighbourhood, and whether the advertisement is in scale and in keeping with these features. Paragraph 136 of the National Planning Policy Framework (the Framework) says the quality and character of places can suffer when advertisements are poorly sited and designed. Although it makes no specific reference to this type of advertisement, the Advertisements Supplementary Planning Document (SPG) acknowledges that advertisements are important in the functioning of the wider economy, but says their display needs to be carefully balanced against the requirement to ensure that they do not have a damaging impact upon the environment or jeopardise public safety.
7. The immediate surroundings are almost wholly commercial in character, where advertising is generally considered to be more appropriate. Although the proposed display would be larger than other commercial signs in the locality, I do not consider it would appear unduly prominent or incongruous in this type of setting. It would relate to the large scale of the Stadium building and the recently developed Glass Yard development opposite and be seen against the immediate background of the trees behind the display. These would soften and mitigate its impact. When the advertisement is seen in this context, I consider it would be appropriate in scale, and not out of keeping.
8. Moreover, whilst there are other advertisements nearby of various types and sizes nearby, the area is not cluttered with signage. As such, the introduction of this single digital display would not materially detract from the character and appearance of this busy commercial area and transport corridor.

¹ Town and Country Planning (Control of Advertisements) (England) Regulations 2007

9. My findings should not be taken as an indication that I disagree with the thrust of the Council's policies for effective control over the display of advertisements. However, each proposal must be considered on its own merits and the appropriate amenity test is not whether an advertisement would positively contribute to the amenity of an area, but rather whether it would detract from the amenity of the area. On this occasion I have concluded on this issue that the proposal would not be harmful to the amenity of the area.

Public Safety

10. More detailed guidance concerning public safety considerations are set out in PPG 067. This acknowledges that advertisements are intended to attract attention, but advertisements at those points where drivers need to take more care are more likely to affect public safety. Digital advertisements of the size and form proposed are commonly found in an urban transport network. Consequently, having regard to the PPG, they are not of an 'unusual' nature and are generally unlikely to distract road users in normal driving conditions.
11. There is always the potential for a driver to be distracted by a digital display, but in this case, the highway is reasonably straight and well-lit with good forwards visibility allowing drivers to glance the sign well in advance on the approach. Nor is the section of Sheffield Road in the vicinity of the site complex or particularly challenging, and there is no necessity for a heightened level of concentration by drivers and pedestrians on the approach to and in the vicinity of the display. Furthermore, the sign would be seen against a background of trees and larger buildings beyond which would soften its immediate impact.
12. There is nothing before me to indicate that the proposed advertisement would be sited in a location that is potentially dangerous or would be likely to materially harm highway safety. Furthermore, the Highway Authority were consulted and have raised no highway safety objections, recommending that a number of conditions be imposed if consent were granted. Overall, on this issue I have concluded that the proposal would not be harmful to public safety.

Conditions

13. In addition to the 5 standard conditions, I have also imposed the conditions recommended by the Highway Authority preventing moving images or images of road signs or traffic signals, to control the frequency of image change, to ensure that images remain static and to control the level of luminance. They are in the interests of public safety. Where necessary I have adjusted the wording of these conditions for preciseness.

Conclusion

14. Overall, I conclude that the display of the advertisement would not be harmful to interests of amenity or public safety. I find no conflict with the Framework, the PPG, the Regulations, LP Policies CLP20 and CLP22 insofar as they are a material consideration, and advice in the SPG. Therefore, for the reasons given above, the appeal should be allowed.

Nigel Harrison

INSPECTOR