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# Appeal Decision

Site visit made on 12 July 2022

**by Sarah Colebourne MA, MRTPI**

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

**Decision date: 15 August 2022**

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**Appeal Ref: APP/X1925/Z/22/3300488**

**Land at A505 Nightingale Road and Walsworth Road, Hitchin, Hertfordshire, SG5 1RZ**

- 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 Network Rail against the decision of North Hertfordshire District Council.
  - The application Ref 22/00725/AD, dated 9 March 2022, was refused by notice dated 12 April 2022.
  - The advertisement proposed is described as 'Replacement of existing 1no. externally illuminated 48 sheet advertisement billboard with 1no. 48 sheet digital LED advertisement display'.
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## Decision

1. The appeal is dismissed.

## Preliminary matters

2. The Regulations require that decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework and the Planning Practice Guidance (the PPG) reiterate this approach. Therefore, while I have referred to some of the policies and guidance that the Council considers to be relevant to this appeal, these have not been decisive in my determination of this appeal.
3. The Council's description in its decision notice differs from that in the application, describing it as 'Installation of 1no. 48 sheet digital LED advertisement display following removal of existing 5 no. externally illuminated 48 sheet advertisement billboard' (*sic*). I have considered the proposal on this basis as it describes the proposed works more accurately.

## Reasons

4. The main issues in this appeal are, therefore, the effect of the proposed advertisement on:-
  - amenity;
  - public safety.

### *Amenity*

5. The advertisement regulations state that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature

of historic, architectural, cultural or similar interest. Although the appellant contends that the appeal site only abuts the Hitchin Railway and Ransom's Recreation Ground Conservation Area (the CA), the plans show that the advert would be sited on the footway side of the fence which forms the CA boundary and therefore within the CA.

6. I am therefore mindful of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which sets out that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Paragraph 199 of the National Planning Policy Framework (2021) (the Framework) states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to its conservation. I have not given significant weight to the Council's emerging local plan given its as yet unadopted status.
7. The interest of this CA derives from the influence of the railway in this part of Hitchin. However, the character and appearance of the immediate area around the proposed siting is dominated by the public highway which includes the intersection of three busy roads, by large modern commercial and industrial buildings and by a number of large advertisement billboards on both the same side of the road as the appeal site and on the opposite side which the appellant says have been there for some years. Whilst the approach to the station with its traditional station buildings is nearby, there is little evidence of the railway's influence when viewing the appeal site from the surrounding roads although the GNR Warehouse and the Midland Railway Weighbridge Buildings located within the railway goods yard to the north west, which are Buildings of Local Interest (non-designated heritage assets), can be seen. The largest of those is clearly seen within the context of the appeal site and its setting is dominated by one of the existing billboards.
8. The proposal would remove the row of five, externally illuminated billboards and would replace one with the proposed digital display sign. The Council's Conservation Officer accepts that during the daytime the proposed sign would blend into the locality. Although the proposed sign would include changing images which would be more noticeable at night time than an externally illuminated sign, the area would remain dominated by other signage, together with a plethora of street lighting and lighting from nearby commercial buildings which are open during the evening. The harm to the CA would therefore be less than substantial. As the number of illuminated signs overall would be significantly reduced, I find that there would be a significant public benefit to the character and appearance of the Conservation Area which would outweigh the less than substantial harm to the CA.
9. I conclude then that the proposed advertisement would be acceptable in regard to amenity. As I have concluded that the proposal would not harm amenity, it would therefore preserve the character and appearance of the CA and it does not conflict with national policy in the Framework.

#### *Public safety*

10. National policy in the Framework states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety'.

11. I saw at my visit that the appeal site is in a very busy location close to the town's railway station. The intersection of the three roads is heavily trafficked and comprises a main distributor road feeding into a secondary distributor road. Close to the appeal site, there are bus stops and two pedestrian pelican crossings on both sides of Nightingale Road and a pedestrian crossing with lights on Walsworth Road, together with on-street parking restrictions and numerous highways signs. I noted that vehicles tend to slow down towards the junction then accelerate away from it, with buses and pedestrians creating the need for additional slowing or stopping.
12. Although the cumulative level of illumination would be reduced by the removal of the five existing signs, the Council's Highways Officer considers that the changing images may distract drivers and reduce the safety of the operation of the highway in the local area. The appellant maintains that there will be no moving, flashing, or animated images, the advertisements are static and there will be no fading or merging of images as the adverts rotate and that the transition from one advertisement to another would be instantaneous. However, given that the advertisements could change up to once every ten seconds, whilst that would be an improvement upon the 'The Brightness of Illuminated Advertisements PLG 05' guidance and in line with the industry standard and could be controlled by conditions, on the basis of what I saw at my visit it would nevertheless cause a distraction to drivers in a location where particular care is needed.
13. I conclude, therefore, that the proposed sign would cause a hazard to public safety and would in this regard be contrary to national policy in the Framework.

### **Other matters**

14. The appellant has suggested that the proposal would ensure a number of benefits, including the upgrade of a site lacking in investment; ensuring a consistent quality of advertisement image, unaffected by weathering damage or ageing; a reduction in vehicle trips for reposting paper adverts; eradicating the need to print posters and avoiding the associated waste involved in the production process; the ability to broadcast emergency messaging; the ability to use void periods for non-commercial campaigns; and the opportunity for more creative real time and locally relevant advertising. Whilst that might be the case, some of those are minor matters and there is little substantive evidence of the benefits that would arise. In any case, those matters do not outweigh the significant harm that would be caused to public safety.

### **Conclusion**

15. Although I have found that the proposal would provide a significant benefit in terms of amenity, that does not outweigh the harm that I have found would be caused in terms of public safety which is significant and overriding and there are no material considerations that would outweigh that. I conclude that the appeal should be dismissed.

*Sarah Colebourne*

Inspector