

Appeal Decision

Site visit made on 23 August 2022 by Andreea Spataru BA (Hons) MA

Decision by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 October 2022

Appeal Ref: APP/N4720/Z/22/3302738

Balm Road, C/O Midland Road LS10 2QP

- 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 Network Rail against the decision of Leeds City Council.
 - The application Ref 22/01819/ADV, dated 7 March 2022, was refused by notice dated 16 May 2022.
 - The advertisement proposed is described as "replacement of existing 1no. externally illuminated 48 sheet advertisement billboard with 1no. sheet digital LED advertisement display".
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Decision

1. The appeal is allowed and advertisement consent is granted for the replacement of the existing 1no. externally illuminated 48 sheet advertisement billboard with 1no. sheet digital LED advertisement display at Balm Road, C/O Midland Road LS10 2QP, as applied for. The consent is for five years from the date of this decision and is subject to the standard conditions as set out in the Regulations, and the following additional conditions:
 1. The advertisement hereby approved shall operate at an illumination level no greater than 600 cd/m² during the day and 300 cd/m² at night.
 2. The display shall not change more than once every 10 seconds, the use of message sequencing for the same product is prohibited and the advertisements shall not include features or equipment which would allow interactive messages or advertisements to be displayed.
 3. There shall be no special effects (including noise, smell, smoke, animation, flashing, scrolling, three dimensional, intermittent or video elements) of any kind during the time that any message is displayed.
 4. The interval between successive displays shall be instantaneous (0.1 seconds or less), the complete screen shall change, there shall be no visual effects (including fading, swiping or other animated transition methods) between successive displays and the display will include a mechanism to freeze the image in the event of a malfunction.

Appeal Procedure

5. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

6. The National Planning Policy Framework (the Framework) sets out at paragraph 136 that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
7. In this instance, whilst I note the third party's concerns regarding the effect of the proposal on the amenity of the area, the Council has found the development acceptable on this ground. Based on what I have seen and read I do not consider that the advertisement would appear out of place in the largely industrial context in which it would sit and so, I agree with the Council's findings on this matter. However, the Council has raised concerns in respect of the impact of the digital display on public safety related to highway users.
8. Therefore, the main issue is the effect of the proposal on public safety.

Reasons for the Recommendation

9. The appeal site relates to a piece of land that occupies a corner position, at the junction of Balm Road and Midland Road. The site is currently occupied by two externally illuminated advertisement signs, which appear to have been in place for several years. The proposal would replace the existing advertisement that is currently located on the southern side of Midland Road, facing the southbound traffic on Balm Road. The existing advertisement located on the eastern side of Balm Road, which is visible on both traffic directions on Balm Road, would be removed.
10. There is a bus stop in proximity to the junction between Balm Road and Midland Road, and at the time of my site visit there were also some temporary traffic lights close to this junction to accommodate the traffic during road works. The speed limit is 30 miles per hour on Balm Road and that changes to 20 miles per hour when accessing Midland Road. There are also speed bumps on Midland Road, close to the junction with Balm Road. Thus, there are measures in place to control the speed of the vehicles, and the visibility close to the junction is good.
11. The proposed digital LED display advertisement would be of similar size and position as the one that it would replace, thus it would be visible from the same vantage points. The advertisement images would be static and the transition from one advertisement to another would be instantaneous.
12. I have considered the Council's concerns regarding the effect on public safety. However, I note that the LED images displayed would be static and that the transition between successive advertisements is indicated to be instantaneous. The appellant has also highlighted that they would be prepared to accept conditions restricting the use of message sequencing, the prevention of interactive messages and advertisements, and the use of visual or special effects between successive displays. Furthermore, I have not been presented with any evidence which suggests that either the junction or highway in the immediate vicinity of the appeal site is inherently dangerous or prone to accidents.
13. I acknowledge that the nature of the proposed advertisement would provide a greater level of distraction than the existing advertisement. However, having regard to local traffic conditions, and the nature of the junction, I do not

consider that this would amount to an unacceptable effect on the public safety of motorists or pedestrians using the highway in the vicinity of the site.

14. The Council has referred to the policies of the Leeds Unitary Development Plan Review 2006 (the UDP), the Leeds Core Strategy 2014 (the Core Strategy), and the Advertising Design Guide Supplementary Planning Document 2006 (the SPD). Whilst not decisive, I have had regard to Policy GP5 of the UDP, which seeks to ensure that detailed planning considerations are addressed including amenity, and that new development does not harm highway safety. Furthermore, the SPD refers to the need to ensure that advertisements do not result in highway safety considerations. However, I have concluded that the proposed advertisement would not result in public safety concerns and would also accord with the Framework, which seeks to prevent the negative impact of poor advertisements.

Conditions

15. Both the Council and the appellant have suggested the imposition of various additional conditions to control the movement, transition, and timing of the images, as well as the luminance of the advertisement and the incorporation of a fail-safe mechanism in the event of a technical problem.
16. I consider that these conditions would be reasonable and necessary in the interests of protecting the public safety of highway users, although I have adapted the wording suggested as both being preferable given the more stringent nature of the restrictions, and more concise in respect of the summary of the issues.
17. I have however discounted a suggested condition related to the incorporation of a light sensor to control the brightness of the advertisement in relation to ambient light levels. I note that the Council has accepted that the brightness of the proposed advertisement would accord with the guidance issued by the Institute of Lighting Professionals ('The Brightness of Illuminated Advertisements', 2015) which recommends levels of 600cd/m² during the day and 300cd/m² at night, and I therefore consider the additional imposition of a light sensor would be unnecessary.

Recommendation

18. Accordingly, I recommend that the appeal is allowed subject to the standard conditions set out in the Regulations and the additional conditions detailed above.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Anne Jordan

INSPECTOR