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# Appeal Decision

Site visit made on 20 September 2022

**by Hannah Ellison BSc (Hons) MSc MRTPI**

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

**Decision date: 6 October 2022**

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**Appeal Ref: APP/A0665/H/22/3300188**

**24 Chester Road, Whitby, Ellesmere Port CH65 6RU**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a failure to give notice within the prescribed period of a decision on an application for express consent to display an advertisement.
  - The appeal is made by Mr Warren Milroy, Vivid Outdoor Media Solutions (B) Ltd, against Cheshire West and Chester Council.
  - The application Ref 22/00897/ADV is dated 2 March 2022.
  - The advertisement proposed is described as the erection and display of a wall-mounted 48-sheet sized digital LED advertising unit.
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## Decision

1. The appeal is allowed and express consent is granted for the erection and display of a wall-mounted 48-sheet sized digital LED advertising unit at 24 Chester Road, Whitby, Ellesmere Port CH65 6RU in accordance with the terms of application ref: 22/00897/ADV, dated 2 March 2022, subject to the five standard conditions set out in the Regulations and the following additional conditions:
  - 1) The level of illumination of each advertisement shall be no greater than 300 candelas per square metre during the hours of darkness and 600 candelas per square metre at all other times.
  - 2) The advertisement display shall be fitted with a light sensor, which shall adjust the illumination levels to reflect changes in ambient light levels.
  - 3) The individual advertisements shall contain no moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.
  - 4) The minimum display time for any advertisements shall be 10 seconds and the change between advertisements shall be instantaneous.
  - 5) The advertisement display shall have a default mechanism to turn off or display a black screen in the event of any malfunction.

## Preliminary Matter

2. This appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. During the course of the appeal the Council outlined its concerns with the proposal and provided putative reasons for refusal.

## **Main Issues**

3. The effect of the proposal on the visual amenity of the area and public safety.

## **Reasons**

### *Visual Amenity*

4. The appeal site is the gable end of 24 Chester Road, which is the end building within a parade of shops and services. The site is also adjacent to a large supermarket with associated petrol station and totem sign. The immediate street scene therefore has a strong commercial character.
5. Due to its positioning, the proposal would primarily be visible when travelling along Chester Road in a northerly direction. When viewed from this point, the proposed advertisement would be readily apparent. However, it would be read in the context of the commercial street scene beyond, which contains a number of fascia signs and other advertisements.
6. Although it would be larger and higher than existing advertisements and would be of a digital format, it would assimilate well with its immediate commercial backdrop and would not appear as an incongruous feature. The large scale of the adjacent supermarket and petrol station would also ensure the proposal would not appear overly dominant. Accordingly, the proposal would not result in harm to the visual amenity of the area.
7. The proposal would be unrelated to the building it would be sited on. As such, it would fail to meet the criteria within Policy DM17 of the Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies (the LP2) which states that the use of land or buildings for the display of advertisements unrelated to the premises on which they are to be displayed will not normally be supported unless it would result in an enhancement to amenity or public safety.
8. However, the Regulations<sup>1</sup> and the National Planning Policy Framework (the Framework) state that advertisements should be subject to control in the interests of amenity and public safety only. The provisions of the development plan are to be taken into account only in so far as they are material.
9. Therefore, although the proposal would not comply with the detailed criteria of LP2 Policy DM17, it would align with its overall aim, and that of Policy DM3 of the LP2 and paragraph 136 of the Framework, which is to ensure that advertisements do not have unacceptable harm to amenity. Accordingly, whilst I have taken these policies into account in so far as they are material considerations, they have not been decisive.

### *Public Safety*

10. The approach to the appeal site along the northbound carriageway of Chester Road is long and straight, and speed limits along this stretch are low. As such, drivers approaching the proposal would likely have a generous amount of time to fully assimilate the content of more than one advertisement. Therefore, when at the junction drivers would be familiar with the advertisement and thus any changeover between them would not pose as an unusual feature or cause a distraction.

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<sup>1</sup> The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

11. Moreover, the junction adjacent to the appeal site is not particularly complex, comprising of a mini roundabout with only three exits. For drivers travelling in a northerly direction, the carriageway splits into two lanes with the left hand lane for those accessing the supermarket. Even during peak periods when there may be high numbers of road users and pedestrians in the locality, using this junction would not require particularly high levels of concentration and no more than usual care and attention, as this roundabout arrangement is commonplace in urban areas.
12. Only very limited and oblique views of the proposal would be achieved by drivers entering the supermarket access road from the southbound carriageway of Chester Road or on exiting the supermarket site, due to the appeal site's set back position, the presence of the petrol station and its totem sign. As such, the proposal would not be an overly distracting feature in this regard.
13. Consequently, this proposal would not cause harm to public safety. Although not decisive, it would therefore comply with the highway safety aims of Policy STRAT10 of the Cheshire West and Chester Council Local Plan Part One: Strategic Policies, Policy DM17 of LP2 and the Framework.

### **Conditions**

14. The Council has suggested conditions relating to the control of illumination, moving images and the frequency with which the displays change. These broadly correlate with the conditions suggested by the appellant. In the interests of visual amenity and public safety, I consider such conditions to be necessary, and have undertaken some minor editing where required.

### **Conclusion**

15. For the reasons given above, and having regard to all other matters raised, the appeal should be allowed.

*H Ellison*  
INSPECTOR