
Appeal Decision

Site visit made on 21 October 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2022

Appeal Ref: APP/C2741/Z/22/3306997

Land adjacent to Motoplex Car Sales, Clifton Moor Gate, York YO32 2RJ

- 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 Vivid Outdoor Media Solutions (B) Limited against the decision of City of York Council.
 - The application Ref 22/01102/ADV, dated 25 May 2022, was refused by notice dated 16 August 2022.
 - The advertisement proposed is the erection and display of two freestanding 48-sheet sized digital LED advertising units facing opposite directions in back to back position.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal the Council's adopted and emerging policies have not therefore, by themselves, been decisive.

Main Issues

3. The main issues are the effect of the proposal on (i) the amenity of the area and (ii) public safety.

Reasons

Amenity

4. The proposed illuminated double sided advertisement with its changing static images would replace two modestly sized non-illuminated signs advertising Motoplex Car Sales. It would be positioned to the side of a vehicular access to an existing car park where it abuts Clifton Moor Gate and would be adjacent to a combined cycle/pedestrian route. It would be positioned in a locality which has a more rural and open character. In fact, the evidence is that the site falls within land designated as Green Belt.
5. While I accept that the proposed advertisement would replace two existing advertisements, it could not reasonably be said that they and the proposal are analogous. Indeed, the proposed advertisement would be about 5.9 metres above ground level and approximately 6.4 metres wide. Owing to its size,

height, illumination and changing static images, I find that it would be appreciated by passers-by as a dominant and incongruous addition in the locality detracting unacceptably from the more rural and open character of the environment that prevails.

6. The appellant contends that the proposal would result in the loss of advertisement clutter in so far that the two existing advertisements would be removed. However, I afford this matter limited weight given the significant size and height of the proposed advertisement combined with its use of illuminated and changing static images. Overall, the proposal would cause material harm to the more open and rural character of the area, including during periods of darkness. This harm is a matter of overriding concern.
7. I therefore conclude that the proposal would cause significant harm to the amenity of the area. It would not therefore accord with the amenity requirements of policy GP21 of the Development Control Local Plan 2005 (DCLP), policy D13 of the Publication Draft Local Plan 2018 (PDLP) and paragraph 136 of the National Planning Policy Framework 2021 (the Framework).

Public Safety

8. The advertisement would be located adjacent to the access of the associated car park; opposite the access to Melodies; alongside an offroad cycle/pedestrian route and close to the diverging eastbound lane that splits into two lanes on the approach to the nearby signalised junction of Clifton Moor Gate and Wigginton Road.
9. Contrary to the views expressed by the appellant, I find that the large, illuminated advertisement with its changing static images would have the effect of unacceptably distracting motorists in an area where their attention needs to be focussed given the potential for motorists to need to take a number of actions including accelerating, slowing, stopping and changing direction. Therefore, the advertisement would be a major distraction to users of the highway at a point where a number of vehicular movements are likely to take place. I consider that if the appeal were to be allowed, it would result in conflict between users of the highway, such as rear shunt rear end accidents, to the detriment of public safety.
10. I therefore conclude that the proposal would cause unacceptable harm to public safety and hence would not accord with the public safety requirements of policy GP21 of the DCLP, policy D13 of the PDLP and paragraphs 111 and 136 of the Framework.

Conclusion

11. I conclude that the appeal should be dismissed.

D Hartley

INSPECTOR