
Appeal Decision

Site visit made on 22 November 2022

by Peter D Biggers BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2022

Appeal Ref: APP/X4725/Z/22/3308424

Land adjacent 70 Prospect Road, Ossett, Wakefield WF5 9HL.

- 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 Warren Milroy (Vivid Outdoor Media Solutions (B) Ltd) against the decision of Wakefield Council.
 - The application Ref 22/01628/ADV, dated 25 July 2022 was refused by notice dated 27 September 2022.
 - The advertisement proposed is the erection and display of a freestanding 48 sheet sized digital LED advertising unit.
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Decision

1. The appeal is allowed and express consent for the erection and display of a freestanding 48 sheet sized digital LED advertising unit as applied for is granted. 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 advertisement hereby approved shall operate at an illumination level no greater than 150cd/m² during the hours of darkness. The panel shall be fitted with a light sensor designed to adjust the brightness to changes in ambient light levels.
 - 2) The advertisement hereby approved shall include static images only. The interval between successive images shall be 0.1 seconds or less and the complete screen shall change without visual effects between advertisements. Each image shall be displayed for at least 10 seconds. There shall be no sequencing, fading, swiping or merging of images and it shall not display any animation, video, moving or flashing images. In the event of a fault the panel should be designed to default to a blank black screen.
 - 3) Notwithstanding the detail of the plans submitted with the application, the height from ground level to the lower edge of the display panel hereby granted express consent shall not exceed the height of the brick boundary wall to the football ground immediately behind the panel.

Main Issues

2. The main issues in this case are the effect of the advertising panel on the visual amenity of the surrounding area of Prospect Road and the effect on public safety in respect of its positioning in relation to the highway.

Reasons

3. The proposed 6 metre x 3 metre digital display panel, the subject of the appeal, would be sited on freestanding poles against the brick built boundary wall to the
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football ground immediately east of the site on Prospect Road. The panel would face west towards the junction of Prospect Road and Dale Street and would be approximately 40 metres from the centre of the junction. A single storey building occupied by a hot food takeaway sits immediately adjacent to the proposed panel.

Visual Amenity

4. The site sits in an area of mainly commercial and leisure uses on Prospect Road and reportedly just outside the Ossett Conservation Area. Signage in the immediate area is mainly small commercial signage with the exception of one poster panel further east on Prospect Road on the boundary wall to the football ground. I noted on the site visit that three of the poster panels along the boundary wall of the football ground referred to in the appeal documentation had been removed with only the one now remaining.
5. The character of the immediate locality in which the panel would sit is not one exhibiting special historic, architectural or cultural features. I acknowledge that it is stated to be just outside the Ossett Conservation Area but inasmuch as the panel would not be visible in inward views to the Conservation Area and would instead only be viewed in outward views against a largely commercial and highway streetscape, I am satisfied that the Conservation Area setting would not be harmed.
6. Considering the view eastwards from the junction, in one respect the panel would appear over-dominant in its context and that is in respect of the height at which it is set. However, there is no reason why the base of the panel could not be set lower, as is the case with the remaining poster panel further along the boundary wall to the football ground which is mounted off the wall. This could be achieved by an additional condition to those proposed to ensure the panel base is set no higher than the top of the football ground wall. As this was not a condition proposed by the Council or the appellant, I have consulted the parties on it. The appellant has indicated the additional condition would be acceptable. The Council has made no comment.
7. It has been put to me that there would be cumulative harm in that the panel would be seen in the context of the other advertisement display boards of similar size along the boundary wall of the football ground. However as stated above, at the time of my visit all but one of these boards had been removed and I do not consider there would be cumulative harm to amenity.
8. I note the fact that *Advertisement Regulations* at Reg 3(3) allow that existing advertisements being displayed may be disregarded and in that regard the Council should be able to ensure a precedent is not established and advertising clutter does not reoccur in this area were this appeal to be allowed.
9. I have taken into account policies D9, D16 and D18 of the *Wakefield Local Development Framework Development Policies* (WLD FDP) which seek to protect amenity and so are material in this case. Given that I have concluded the proposal would not harm amenity, the proposal would not conflict with these policies.

Public Safety

10. It has been put to me that the display panel in its proposed location would distract drivers and potentially have an adverse effect on highway safety and thus public safety. However, all advertisements are designed to attract attention, the issue is whether the proposed location would result in driver distraction to the point at which highway safety is jeopardised.

11. The proposed panel would be located within 40 metres of a traffic light controlled crossroads which incorporates pedestrian crossings on each arm of the junction. The *Planning Practice Guidance* at paragraphs 067 and 068 sets out the circumstances in which an advertisement may constitute a danger to highway safety.
12. Having reviewed these circumstances I am satisfied that in the case of the appeal proposal the panel would not obstruct or impair sightlines at the junction nor obstruct or reduce the effectiveness of the signals. There are clear lines of sight for traffic approaching from the west and Church Street and, from the position at the junction, the traffic signal heads would not be viewed against the panel. Moreover, the panel location would be such that it would be viewed without the driver having to turn to look at it when approaching from the junction and it would form part of the driver's forward view.
13. I acknowledge that the issue of an illuminated digital display panel if not properly controlled might constitute a distraction in terms of the lighting levels and the way in which images are displayed. However, the surrounding area is well lit with high level street lighting and it is not a dark area where the level of illumination from the panel would appear excessive. Moreover, there is now a well established suite of conditions to control digital display panels which the appellant has indicated they would accept. The Council in the appeal questionnaire proposed two additional conditions but in the way, these are worded they largely pick up the matters the appellant suggested as separate conditions.
14. A condition is necessary in respect of light levels of the display to control the luminance level to reflect the ambient light levels through the day and to control maximum light levels at night. The reason for this condition is to ensure that the display luminance is not excessive and distracting to road users. The appellant proposed a 300 cd/m² maximum night time level whilst the Council has proposed 150 cd/m². Given the location, with what appeared to be residential accommodation opposite the display panel, it is reasonable that during the hours of darkness the luminance level is at the lower level, rather than the level the appellant initially proposed.
15. A further condition is also required to control the presentation of the images and operation of the display screen to ensure that the display does not cause a distraction. Firstly, the panel should be used for the display of static images only. Secondly the minimum display time should be 10 seconds. Thirdly, the transition between images should take 0.1 seconds or less and should not feature any transition features such as fading and swiping. Finally, control is necessary to ensure that in the event of a fault the panel defaults to a plain black screen. This last was not requested by the Council but is now an accepted control and is accepted by the appellant. I am satisfied that with conditions in place to offer these controls that the risk to highway safety and therefore public safety would be minimal.
16. I have taken into account Policy D14 of the WLDFDP which seeks to ensure Highway Safety and so is material in this case. Given that I have concluded the proposal would not harm highway and therefore public safety, the proposal does not conflict with this policy.

Conclusion

17. Accordingly, for the reasons given above and having regard to all matters raised I conclude that the advertising display panels would not be detrimental to the

interests of visual amenity or public safety. I do consider however that three conditions are necessary to reduce the height, to avoid excessive luminance during the day and through the hours of darkness and to avoid undue distraction, in addition to the standard conditions set out in the Regulations. With these conditions imposed the appeal should be allowed and express consent granted for the advertising display.

P. D. Biggers

INSPECTOR