



Appeal Decision

Site visit made on 27 January 2023

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/V4250/Z/22/3304819

Rodney Street Car Park, Rodney Street, Wigan WN1 1DG

- 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 Messrs Austringer Capital Limited against the decision of Wigan Metropolitan Borough Council.
 - The application Ref A/22/93058/ADV, dated 26 January 2022, was refused by notice dated 7 July 2022.
 - The advertisement proposed is digital sign boards (x2).
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Decision

1. The appeal is allowed and express consent is granted for digital sign boards (x2) at Rodney Street Car Park, Rodney Street, Wigan WN1 1DG. The consent is for ten years from the date of this decision and is subject of the five standard conditions set out in the regulations and the following additional conditions:
 - 1) No individual advertisement displayed on the boards shall contain moving images, animation, video, full motion images, or images that resemble road signs or traffic signs.
 - 2) The intensity of luminance of the advertisement shall be no greater than 300 cd/m² during twilight and the hours of darkness.
 - 3) The advertisement displays shall not change more frequently than once every 10 seconds and the rate of change should be instantaneous (1 second or less) with no flashing and a smooth instant change onto the next static poster image and the complete screen shall change, there shall be no visual effects including swiping or other animated transition methods between successive displays.

Main Issue

2. The main issue is the effect of the proposed advertisement on public safety, with regards to the safety of users of the highway.

Reasons

3. The appeal site lies within a car park bound by King Street, Rodney Street and the A49, River Way. Access in and out of the car park is off Rodney Street. The dual carriageway of River Way forms part of the Key Route Network and there are three complex signalised junctions used by a range of road users, including those who are vulnerable. King Street, Darlington Street, Harrogate Street and Rodney Street along with River Way make up the gyratory. Each road is subject to a 30 mph speed limit. It is a busy series of junctions that include pedestrian crossings and specific lanes to ensure vehicles navigate safely around and through the junction.

4. The proposed adverts would be mounted on metal legs about 2.5 metres above the ground, and arranged 'back-to-back' with one facing in a north-east direction and the other in a south-west direction to align with the A49.
5. For individual or collective reasons, the adverts would not readily form part of motorists' field of vision when driving along Darlington Street, King Street, Rodney Street or Harrogate Street. This is due to the alignment of the roads, the direction of travel, buildings, varying ground levels, parked vehicles, and/or trees. Whilst road users do need to pay close attention to the different signals and other road users when using these roads, the proposed adverts would not distract or negatively affect public safety on these roads. Nor would the proposed adverts interfere with road signs.
6. Given this, my focus turns to River Way. Two accidents at the junction of River Way/Rodney Street/Harrogate Street occurred in 2017 and 2019. Both resulted from a collision between the front and nearside of two vehicles. It is unclear what the cause of these accidents were, beyond driver behaviour, but given the high use of River Way and those junctions, the low number of accidents indicates that the highway environment is not inherently unsafe. I also note that the trained observer determined that the complex junction layout was not an issue in those accidents.
7. I agree with the Council that road traffic accidents are generally random and multifactorial, that they can have several causes and there can be several accidents at the same location, but each has different attributes. However, that does not necessarily mean that the proposed adverts could or will be a contributing factor in accidents along River Way. In fact, large digital adverts have become common next to busy roads and junctions in recent years. They are not therefore, unusual. So, whilst there is logic to minimising potential distractions around the junction to reduce the risk of accidents, the proposed adverts would be viewed in either direction along River Way which has a straight alignment, good forward visibility and its 30 mph speed limit. There are also very few road signs along River Way near the proposed adverts for motorists to be distracted from. The appeal site is also distant from pedestrian crossings to the north and south and there would be sufficient stopping sight distance of the subsequent traffic light controlled junction.
8. Given these factors, whilst road users would need to continue to exercise a high degree of care when using the roads and the junction to ensure the safety of themselves and others, the adverts would not cause undue distractions to road users. I note the various papers and decisions relating to digital adverts, but I have considered on its own merits.
9. Accordingly, I conclude that the proposed adverts would not harm public safety, with regards to the safety of users of the highway. Policy CP7 of the Wigan Local Plan Core Strategy seeks to maximise the capacity, efficiency and safety of the road network, reducing, as far as is practicable, the adverse impact of transport on our communities, town centres and the wider environment. Thus, it is material in this case. But the proposal would accord with it and paragraph 136 of the National Planning Policy Framework as the adverts are acceptable in public safety terms.

Amenity

10. My assessment of this appeal is confined to matters relating to amenity and public safety. I have addressed the latter above. In relation to amenity, the

former Westwood Estate Office at 5 Rodney Street, a Grade II Listed Building is to the north-west of the proposed adverts. The statutory duty from s66(1) of the Act does not apply here because it only applies to a grant of planning permission. However, as the building is listed it is a relevant consideration to the consideration of amenity. So is the nearby Wigan Town Centre Conservation Area (CA). The provisions of s72(1) of the Act do apply in this case as this appeal is exercising a function under the Act.

11. Given the location and design of the proposed adverts, the presence of existing street furniture such as road signs, traffic signals and street lighting next to River Way, the proposed adverts would respond to the commercial nature of the CA. Furthermore, the proposed adverts would not harm the key features which make up the special interest of the CA. Thus, the CA would be preserved. The proposed adverts would also not harm the listed building for the reasons set out in relation to the CA. As such, its architectural qualities would continue to be experienced. For these reasons, the proposed adverts would not be detrimental in the interests of amenity. As Core Strategy Policies CP10 and CP11 and saved Policy EV4A of the Wigan Replacement Unitary Development Plan Remaining Policies are material to this matter, the proposal would comply with them.

Conditions

12. In addition to the 5 standard conditions, I have imposed conditions in respect of the level of illuminance as suggested by the Council in the interests of highway safety to avoid glare, dazzle or distraction to passing motorists. I have also imposed conditions in respect of the type and nature of the adverts shown and the frequency at which they change. They are both necessary in the interests of highway safety so that the adverts do not distract passing motorists. The consent is for 10 years from the date of this decision. I am mindful of the length of time, but provisions exist in the regulations to secure the removal of the adverts if necessary to remedy injury to the amenity of the locality or danger to members of the public.

Conclusion

13. For the reasons given above, I conclude that the display of the advertisements would not be detrimental to the interests of public safety and amenity.

Andrew McGlone

INSPECTOR