



Appeal Decision

Site visit made on 14 February 2023

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Appeal Ref: APP/A0665/Z/22/3309432

Gable at Whitby Road, Ellesmere Port, CH65 8AB

- 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 Clear Channel UK against the decision of Cheshire West and Chester Council.
 - The application Ref 22/00646/ADV, dated 18 February 2022, was refused by notice dated 26 August 2022.
 - The advertisement proposed is single illuminated 48-sheet digital poster display.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Paragraph 136 of the National Planning Policy Framework (the Framework) advises that there is a separate consent process to control the display of advertisements¹. The Framework, the Regulations, and the Planning Practice Guidance (PPG) all make it clear that advertisements are controlled with reference only to their effect on "*amenity*" and "*public safety*"². The provisions of the development plan, and any other relevant factors, can be considered, so far as they are material³. I have assessed the advertisement for which consent is sought in accordance with the relevant regulations and guidance.

Main Issues

3. The main issues are the effect of the proposed advertisement on the "*amenity*" of the area (character or appearance), which includes the setting of the locally listed Our Lady Star of the Sea Roman Catholic Church, and "*public safety*".

Reasons

Amenity

4. The Regulations advise that "*factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest...*"⁴.

¹ They are regulated by The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

² Paragraph 136 of the Framework; Paragraph: 001 Reference ID: 18b-001-20140306 Revision date 06 03 2014 of the PPG, and section 3(1) of the Regulations

³ Section 3(1)(a) and (b) of the Regulations

⁴ Section 3(2)(a) of the Regulations

5. The proposed digital display poster would be attached to the upper section of the south-western facing side elevation of a two-storey, end of terrace commercial property located on the south-eastern side of Whitby Road. The appeal building is located within the central area of Ellesmere Port town centre.
6. Directly opposite the north-western facing elevation of the appeal building is Our Lady Star of the Sea Roman Catholic Church, which is identified on the Cheshire Historic Environment Record (HER) as a locally listed building. I consider the proposed advertisement would be located within the immediate setting of this non-designated heritage asset (NDHA).
7. I acknowledge that many of the surrounding commercial properties have advertisements attached to them, some of which are illuminated. However, there are no modern, technologically advanced, digitised display screens of the type proposed within proximity of the site.
8. I note that the PPG indicates that advertisements that may otherwise be refused may be permitted in commercial areas. However, it does not logically follow from this that any advertisement would be acceptable in any commercial settings.
9. The upper floor of the appeal premises comprises a blank side elevation, with a cream render finish, where the proposed digital display screen would be positioned. The proposed display screen, with black plastic surround and colourful changing images, would contrast sharply with the rendered elevation. Additionally, the properties on the south-eastern side of Whitby Road located immediately south-west of the appeal building are set back from Whitby Road in the style of a shopping parade. In these circumstances the proposed sign would be sited in a highly visible, prominent position.
10. The proposed display screen would be very large, compared with other advertisements signs in the locality, measuring 6 m wide x 3 m high. In terms of scale, it would cover around two thirds of the upper floor side elevation, filling the area between the top edge of the ground floor fascia board and the underside of the guttering. As such, it would be substantially out of proportion with the section of elevation to which it would be attached.
11. The locally listed Our Lady Star of the Sea Roman Catholic Church was originally constructed of corrugated iron in 1909 to serve the workers of the Wolverhampton corrugated iron co. It was the first Catholic church in Ellesmere Port. The original building was replaced with the current building in 1931. The building's heritage significance is partly derived from its historic and cultural importance locally.
12. Additionally, the building's significance is partly derived from several of its architectural features, which include a cross shaped finial on the roof ridge at the top of the south-western facing gable elevation; a large rose window in the upper section of this elevation; semi-circular window openings, separated by decorative brick columns, in the south-eastern and north-western-facing elevations and tall arched windows in the south-eastern and north-western facing gable elevation of the transept. The proposed digitised display screen would clash with, and be totally out of keeping with, these features.
13. I have taken account of the conditions suggested by the appellant. However, overall, due to the prominent siting, large size, disproportionate scale,

digitised/illuminated nature of the proposal, and proximity to the NDHA, I consider it would be out of keeping with the host building and the character and appearance (amenity) of the area.

Public safety

14. The Regulations advise that factors relevant to public safety include the safety of people using any highway, and whether proposals would obscure or hinder the ready interpretation of any traffic sign⁵. The PPG advises that adverts located at points where drivers need to take more care, eg junctions or roundabouts, are more likely to affect public safety⁶.
15. The proposed digital display poster would be sited such that it would not be visible by people travelling in a south-westerly direction towards the appeal site. Its visibility would therefore be restricted mainly to road users travelling along Whitby Road in a north-easterly direction towards the site. It would also be visible to such users when exiting from Enfield Road and Marina Drive onto Whitby Road. The proposal would be visible to pedestrians walking along the section of Whitby Road south-west of the site and along/around Marina Drive.
16. However, the display would be visible to all from as far away as the crossroads at Whitby Road/Sutton Way, around 400 m from the site. Being able to see the digital display screen from such a long distance from it would enable road users to register its presence well before getting close to it.
17. From the Whitby Road/Sutton Way crossroads road users would pass through several sets of traffic lights and pedestrian crossings before reaching the appeal site. These features would potentially require them to slow down and/or stop on numerous occasions, allowing them to process the information around them.
18. The buildings are set well back from the carriageway edge on both sides of the road. Although the road is a classified road passing through a high street environment, it is relatively wide, and it is straight. Consequently, visibility along the road is very good. There are streetlamps and other street furniture/road signs both sides of Whitby Road. However, no road signs would be obscured by the proposed display screen. There is a set of traffic lights/pedestrian crossing around 20 m north-east of the site. Consequently, road users would often be slowing down as they approach the appeal building.
19. I accept that the proposed advert would potentially attract the attention of road users. However, attracting the attention of road users does not necessarily mean that such users would be distracted from the activity they are primarily engaged in. I have not been provided with any substantive evidence that suggests that an advertisement of the type proposed in the location proposed would result in accidents, thereby endangering public safety. For the reasons outlined, I conclude that the proposed advertisement is unlikely to harm public safety.

⁵ Section 3(1)(a) and (b) of the Regulations

⁶ PPG Paragraph: 067 Reference ID: 18b-067-20140306 Revision date: 06 03 2014

Conclusion

20. Notwithstanding my conclusion regarding public safety, I have found that the proposed advertisement would significantly harm the character and appearance (amenity) of the area.
21. I have taken policies ENV 5 and ENV 6 of the Cheshire West & Chester Council Local Plan (Part One) Strategic Policies, and policies DM 3, DM 17 and DM 48 of the Cheshire West & Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies into account. Collectively, and among other things, they require advertisements on buildings to be proportionate to the scale of the building; and development should respect and protect local character, be sympathetic to heritage assets and safeguard NDHAs. As such, they are material to the case. As I have concluded that the proposal would harm the amenity of the area, the proposal conflicts with these policies.
22. For the reasons outlined, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR