



Appeal Decision

Site visit made on 27 March 2023

by **J Burston BSc MA MRTPI AIPROW**

an Inspector appointed by the Secretary of State

Decision date: 13 April 2023

Appeal Ref: APP/X1165/Z/22/3303444

Daintons Storage, Yalberton Industrial Estate, Alders Way, Paignton, TQ4 7QL

- 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 Town & Country Advertising Ltd against the decision of Torbay Council.
 - The application Ref P/2022/0491, dated 26 April 2022, was refused by notice dated 13 June 2022.
 - The advertisement proposed is Display of 2 no LED signboards (displaying static images).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In accordance with the National Planning Policy Framework (the Framework), the Regulations and the Planning Practice Guidance, (PPG), my consideration of this appeal is confined to the issues of amenity and public safety, taking into account the provisions of the development plan, so far as they are material and any other relevant factors. In this respect the Council has brought Policy D6 of the Torbay Local Plan to my attention. This Policy sets out that advertisements will not be permitted where they would harm visual or aural amenity or would undermine public safety.

Main Issue

3. The Council have raised no issues in regard to the proposal's effect on amenity and therefore the main issue in this case is the effect of the proposal on public safety.

Reasons

4. The appeal site is located on an area of land adjacent to the A3022 (Brixham Road) a dual carriageway, close to the junction with Yalberton Road. This junction is controlled by 3-way traffic lights. The junction provides an access to a large supermarket, petrol station, fast food outlet and a number of industrial units.
5. At the time of my visit, outside of peak traffic hours, the Brixham Road was relatively busy, with traffic queuing at all arms of the signalised junction. I also witnessed a steady flow of pedestrians visiting the supermarket and other commercial premises in the area.

6. Given the commercial character of the area advertisement panels are not uncommon. However, I did not observe any similar LED type signboards. Having regard to all these factors, I consider that the appeal site is located in an area where there could be many competing distractions to all road users.
7. The proposals include two 6m x 3m LED signboards which will display static images changing after 10 seconds with no animation or special effects. Panel A would face traffic approaching from the south and panel B would face the traffic approaching from the north. The signs would be illuminated 24 hours a day with an illumination level of 5,000 candelas per sqm during the day and 300 candelas per sqm at night. The displays would be laid out in a 'forecourt' arrangement in that they are set at opposite ends of a grassed area and orientated so that the displays face into the space between them and visible to traffic on the Brixham Road.
8. The Town and Country Planning (Control of Advertisements) (England) Regulations state in section 3(2)(b) that factors relevant to public safety include the safety of persons using any highway. The Planning Practice Guidance states that all advertisements are intended to attract attention, with those proposed at points where drivers need to take more care are more likely to affect public safety. Furthermore, it advises that the main types of advertisement which may cause danger to road users are those which are illuminated, which could be mistaken for, or confused with, traffic lights and those subject to frequent changes of the display. Moreover, those which, because of their size or siting, would obstruct or confuse a road user's view, or reduce the clarity or effectiveness of a traffic sign or signal can also pose a risk to highway safety.
9. The Highway Authority objected to the application due to concerns relating to the hinderance Panel A may have on the interpretation of traffic signals and the distraction Panel B may cause to road users.
10. While I have already acknowledged that advert panels are common in the local area, the proposed units would be a dominant feature when approaching the road junction in either direction. The intermittent changing of the advert display, albeit with little transition time, has the potential to distract motorists and create visual confusion, posing a risk to pedestrians and road users as they approach this active section of road.
11. I recognise that Panel B would not distract traffic approaching from south as it would be at an oblique angle. However, there is no substantive evidence before me to demonstrate that the display would not distract vehicles on the opposite side of the road from noticing vehicles slowing down to stop at the junction. Thus creating the increased potential for collisions.
12. Panel A would be visible to traffic approaching from the south and would benefit from some advance visibility. Nevertheless, given the road topography and alignment the panel would not be fully appreciated until relatively close to the junction. At this point the panel would be seen as a feature beyond the traffic lights which may draw the driver's attention away from the road ahead, where I consider that road users need to take particular care.
13. I accept that the accident data provided by the appellant records only three accidents during the period of 2017 – 2021. Whilst this number appears relatively low, these statistics are without the proposed digital illuminated advert in place.

14. The appellant has proposed a number of measures to mitigate the potential effects of the proposed display units, which they suggest can be controlled by planning conditions. I accept that these are all measures referred to in good practice documents, but I am not satisfied that they would overcome the potential for undue driver distraction or interference with visibility of traffic signals that would be associated with the proposal, as referred to above.
15. I acknowledge the research papers and guidance documents brought to my attention by the appellant. Whilst these documents do not directly apply to the geographical context of the appeal, I have no reason to dispute their conclusions.
16. I note that the TfL document recommends that advertising should be operationally managed in accordance with the specific constraints of the location, but there is no substantive evidence before me to suggest that such an approach was taken to inform whether the proposed advertisement displays proposed here would have an impact on road safety. I have therefore considered the proposal on the basis of the evidence before me, having regard to its own site-specific constraints.
17. My attention has been drawn to other examples of roadside digital advertising. The full details of those cases are not before me; however I do not accept that they are in comparable locations where there are as many competing distractions to road users.
18. I conclude from this that the risk to highway safety would be likely to increase as a result of the proposed digital signboards at this location. Despite the proposed conditions by the appellant to mitigate against the levels of illumination and frequency/method of change I consider the proposal has the ability to distract road users at a time when they should be paying due care and attention to the road. The proposal, therefore, could prejudice public safety and as such would conflict with the Framework and PPG in their objectives to promote public safety.

Other Matters

19. The appellant refers to the potential for the advertisement to be let or rented out for public information campaigns. Whilst recognising that this could support the local community, the appeal concerns a digitally illuminated sign rather than any particular advert displayed on it. In any case, any community benefits of the proposal would not outweigh the identified harm.

Conclusion

20. I have concluded that the proposed advertisement would have an unacceptable impact on public safety. For the reasons stated, and in accordance with the Framework and guidance contained within the PPG, the appeal should be dismissed.

J Burston

INSPECTOR