The Planning Inspectorate

Appeal Decision

Site visit made on 17 March 2023

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Appeal Ref: APP/W1850/Z/21/3286631
69-71 Edgar Street, Hereford, HR4 9JP

- 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 Alight Media against the decision of Herefordshire Council.
- The application Ref 213107, dated 10/08/2021, was refused by notice dated 03 November 2021.
- The advertisement proposed is 1 x 48 sheet freestanding digital advertising display unit, measuring 6.4m wide x 3.4m high, and comprising pressed metal frame with sealed LED screen.

Decision

1. The appeal is allowed and express consent is granted for the display of a 1 x 48 sheet freestanding digital advertising display unit, measuring 6.4m wide x 3.4m high, and comprising pressed metal frame with sealed LED screen as applied for. The consent is for five years from the date of this decision and subject to the following conditions:

   (1) The luminance level of the display shall be controlled by ambient environmental control, which will automatically adjust the brightness level of the screen to track the light level changes in the environment throughout the day to ensure that the perceived brightness of the display is maintained at a set level;

   (2) The maximum luminance of the advertisement shall not exceed that recommended in the Institute of Lighting Professionals Technical Report No 5 (or successor publication). The maximum luminance shall not exceed 300cd/m² during darkness (dusk to dawn);

   (3) The minimum display time for each advertisement shall be 10 seconds and the advertisement shall not include any features or equipment which would permit interactive messages/advertisements to be displayed;

   (4) The interval between successive displays shall be 0.1 second or less and the complete display screen shall change without visual effects (including fading, swiping or other animated transition methods) between each advertisement;

   (5) The advertisement shall not contain any animation, special effects, flashing, scrolling, three-dimensional images, intermittent or video elements. No images that resemble official road traffic signs, traffic lights or traffic matrix signs shall be displayed;

(6) The advertisement shall include controls to ensure smooth uninterrupted transmission of images;

(7) The sequencing of messages relating to the same product is not permitted;

(8) If the installation breaks down or is not in use, it shall default to a plain, black screen.

Procedural Matters

2. The appellant points to a lack of any formal character appraisal for the CCA. Given that the CCA is a designated heritage asset which incorporates the core of this historic Cathedral City, the absence of formal character assessment pr management approach such as guided by Historic England[1] (or any equivalent evidence) would be unusual in a location replete with heritage assets, since such appraisals provide a consistent basis for consideration of the duties set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act (1990) (LBCA)[2]. Nevertheless, I have nothing before me to show that an appraisal of the character of the CCA has been carried out nor is one available on the Council's website. In consequence my decision is based on my own observations as to the effect on designated heritage assets and the general characteristics of the area including historic, cultural or similar interest.

3. The Council refer to polices which it considers relevant and I have taken these as a material consideration, however Paragraph 136 of the Framework and the Town and Country Planning (Control of Advertisements) (England) Regulations both make clear that advertisements should only be subject to control in the interests of amenity[3] and public safety, taking account of cumulative impacts, consequently, having regard to these matters I have outlined the following:-

Main Issues

The main issues to be addressed in this decision are:
i) the effect of the development upon
- public safety, and
- amenity, including the character and appearance of the CCA,

and
ii) whether the proposal would be in the setting of 57-63 or 65-67 Edgar Street which are listed buildings and, if so, whether the display would harm their significance.

Reasons

Public Safety

4. Regulation 13(1) (e) of the Town and Country Planning (Control of Advertisements) (England) Regulations (The Regulations) requires the Highway Authority to be consulted upon proposals for advertisements that are visible from the Highway as is the case here. In that regard the A49/Edgar Street is

[1] Conservation Area Appraisal, Designation and Management: Historic England Advice Note 1 (Second Edition)
[2] See paragraph 2 of the introduction to the abovementioned guidance. The appeal site is adjacent to the curtilage of listed buildings which are designated heritage assets and a similar duty is set out in Section 66 of the LBCA
[3] Which would include historic, architectural, cultural or similar interest

part of the Strategic Road Network, and the Council refer to 'strong objection' from National Highways to the proposal due to a significant history of collisions with pedestrians and cyclists in the vicinity.

5. The proposed display would be a substantial '48 sheet' digital display with a total height of some 5.5m and a width of 6m and would be located immediately adjacent to, and on the western side of, the A49/Edgar Street which is a main north-south route in the City of Hereford. The display would be facing north, therefore visible to pedestrians but mainly directed at southbound traffic entering the historic central area of Hereford City Centre or passing through to the south, west or east. The display would not be apparent to northbound road users of this main road and would be located close to the appeal site's boundary with 67 Edgar Street and in the context of the large commercial development on the east side of Edgar Street. Significantly, the display would lie at some distance from the southbound line of traffic with a wide section of northbound highway and central reservation between.

6. As my site visit took place when traffic was light, I undertook a second site visit when roads were busier in order to observe and make use of the relevant junctions and roads at different times. My observations did not suggest a significant risk of distraction from the proposal in terms of its position relative to the use of the highway in that drivers travelling south along Edgar Street travel with a high level of awareness in the relevant parts of Edgar Street where side road junctions and traffic lights, together with direction signage on the approach to the A49 traffic island are found. However, the traffic-light junction at Blackfriars Road would be more than 100 metres before the proposed display, and the main direction sign is in the central reservation slightly beyond the proposed display.

7. As the Council point out, the display would have a backdrop of established trees. It would stand apart from the highway features and signs above and well to the side of the zone of vision of southbound drivers on the A49/Edgar Street at the point where lane selection is being considered. The display would be in the field of vision for drivers emerging to turn south on Edgar Street from Cannonmoor Street which is an uncontrolled junction close to the proposed display location (requiring the northbound carriageway to be crossed where carriageways merge) but I do not consider awareness of approaching traffic or pedestrians attempting to cross to the central reservation would be impaired. The display would be set back behind a wide pavement above the field of vision in which other road users could be clearly seen. Overall, in entering or emerging from the side road junctions and access points and in travelling the length of Edgar Street I found little to suggest potential for distraction by the proposed display to the detriment of road safety for users, whether pedestrian, motorised or non-motorised.

8. Highways England object to the proposal citing a cluster analysis report that points to Edgar Street as a high-ranking location for collisions with cyclists and pedestrians. The appellant, by reference to 'crashmap' information points to an absence of incidents south of the Blackfriars Street junction in the proposed display location. No data as to the nature of incidents is provided but my own observations are that the different character of the road north of the Blackfriars Street junction (which is 100m from the proposed display site) is dissimilar such that the risk of collision would be higher there than in the immediate vicinity of the proposed display in that there is no central refuge available to

pedestrians where Edgar Street is 5 lanes wide (including the turning lane) at the point where it passes between the football ground and the Courtyard Theatre which at times would be busy. It seems to me that this combination of factors could lead to conflicting actions between different road users that would not occur in the location of the proposed display.

9. Noting the Council's objection as to lighting levels is addressed by proposed conditions, the display would correspond to industry standards in terms of the control of the intensity of the lighting and the frequency of the change of the advertisement so as not to confuse a road-user's view or reduce the clarity or effectiveness of a traffic sign or signal. I therefore conclude for the reasons I have set out that the proposal would not result in an unacceptable risk to public safety subject to the conditions proposed by the appellant which meet the appropriate tests.

Amenity

10. The appeal site lies at the northern extent of a small northward spur of the CCA which is otherwise, to the south, a large area incorporating the historic core of Hereford with many important buildings, historic streets and spaces. This part of the CCA which includes Grade II listed Nos. 57-63 and 65-67 Edgar Street (the listed buildings) the curtilage of which also prescribes the CCA boundary that extends from the traffic island (the traffic island) at the junction of Edgar Street with Victoria Street and New Market Street, streets which encompass the CCA and historic core of Hereford on its northern perimeter.

11. The setting of the listed buildings is generated from the way these buildings are experienced, providing in part a formal edge to the central area of the City along Edgar Street by virtue of their spacious frontal presentation, height and symmetry of form with some mature planting and trees. The character and appearance of this part of the CCA which also includes non-listed buildings, is that of large early-nineteenth-century houses in spacious garden settings, albeit changed by late twentieth-century road improvement and later insertions.

12. The appellant points to the absence of any character appraisal for the CCA and suggests the inclusion of the appeal site in the Central Conservation Area (CCA) was arbitrary. As I have explained, there is nothing before me by way of character appraisal or management plan for the CCA to counter that position; none has been provided or referred to by the Council and its website lacks such documentation.

13. The display would be located at the boundary of the appeal site with No. 67 Edgar Street (No.67), directed at southbound drivers along the A49/Edgar Street. The appellant shows the display set against a backdrop of trees at the boundary which had the effect of separating, and in an approach view largely concealing, the remainder of the CCA to the south. The display would be seen substantially in the context of commercial development along Edgar Street which is an important, wide, highway with signage and traffic lights rather than a backdrop of listed buildings and the remainder of the CCA. In this respect the targeted southbound drivers will have passed the football ground with multiple hoardings and paraphernalia, and the approach view (but before entering the setting of the listed buildings south of the display) would include the significant cattle market redevelopment (multi-storey car park and retail store signage) set at back of pavement on the eastern side of Edgar Street.

14. Overall the Council's comments as to impact of the proposal upon the character and appearance of the CCA and listed buildings do not extend beyond a general presumption of harm from the nature of the proposal, but do refer to the impact of the proposal on the mature boundary trees at the boundary between No. 67 and the appeal site against which the proposed display would be set on its northern side. To my mind these trees define the edge of a character area which includes the listed buildings but excludes the appeal site. I consider, by virtue of a wholly hard-paved car park unrelieved by landscape softening, and open boundaries on its wide frontage (which includes Canonmoor Street) , that the appeal site presents a utilitarian appearance unrelated to the remainder of the CCA (or No.67). Although the original building on the appeal site (Nos. 69-71) appears to share origins with its neighbour and from certain viewpoints can be seen in context with No.67, alterations (including chimney loss) and extensive changes to form and mass together with its utilitarian setting combine to create a closer visual association, and character, with the commercial and non-residential uses to its north and east than with the remainder of the CCA.

15. I have already pointed to the separating effects of the trees against which the display would be situated and the way the listed buildings are experienced. For the reasons stated I do not consider that the display would be within the setting of any listed building. In any event, the listed buildings have significant commercial developments within their setting, notably the former Cattle Market redevelopment comprised of substantial structures which line the edge of the highway and do so in continuation with other elements of a distinctly urban, commercially focussed, environment incorporating a wide urban road layout and its associated clutter of street furniture, traffic lights and signage.

16. The display would be a large LED screen with images changing at defined intervals. The appellant points to the means of control of brightness and timing of display, suggesting conditions as to best practice. Whilst the display would be located within, but at the edge of the CCA, noting the setback of No.69-71 its significant size would not be incompatible with the uses and overall scale of built form in its locality.

17. The display would be silent and illumination would vary according to ambient lighting levels. The display would, as intended, be visible to southbound traffic and pedestrians in the locality on its northern side but not from within the remainder of the CCA or Edgar Street south of the display location. My assessment of the appeal site is that it does not share the greened spacious setting of the CCA which includes the curtilage of the listed buildings, nor does it share their sense of separation from the urban activity on Edgar Street and beyond. To the contrary, notwithstanding its location within the CCA as a designated heritage asset, I consider that the appeal site has the character of the surrounding largely commercial uses to the north of the proposed display location on both sides of Edgar Street, with car parking, multiple hoardings and other visual clutter.

18. I have concluded the proposed display would not be within the setting of any listed building. I have concluded the display would be experienced within a largely commercial environment where significant commercial signage is already found. Although the display would add to that experience and be of a different form and operational character there would be no unacceptable cumulative impacts due to its location on the west side of Edgar Street. The

context I have identified as to the character of the appeal site directs that the proposals would not fail to preserve the character and appearance of the CCA and, taking all matters raised into account, there would be no detriment to amenity.

Conclusion

19. I have concluded there would be no unacceptable risk to public safety. I have also concluded that there would be no harm to amenity. On that basis the appeal succeeds subject to the conditions stated.

Andrew Boughton

INSPECTOR