



Appeal Decision

Site visit made on 2 August 2023

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st August 2023

Appeal Ref: APP/V4630/Z/23/3317456

Ablewell Service Station, 4-8 Ablewell Street, Walsall, WS1 2EQ

- 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 against the decision of Walsall Council.
 - The application Ref 22/1582, dated 21 November 2022, was refused by notice dated 14 February 2023.
 - The advertisement proposed is a single illuminated 48-sheet poster display.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the above description of the proposal from the application form. However, I note from the information submitted that the proposed advertisement is an internally illuminated 48-sheet LED digital changing display, displaying static images on rotation every 10 seconds. I have based my decision on such.
3. The Regulations, the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) all make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. I have therefore had regard to the policy references in the decision notice only in so far as they relate to amenity and public safety.

Main Issues

4. The main issues in the appeal are:
 - The effect of the proposed advertisement on the amenity of the area; and
 - the effect of the proposed advertisement on public safety.

Reasons

Amenity

5. The appeal site lies within the Church Hill Conservation Area (CA). The Council note that the CA is listed on the Historic England's Heritage at Risk Register as being in very bad condition, with low vulnerability and an improving trend.
6. I am therefore mindful of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This sets out the need to have special regard to the desirability of preserving or enhancing the character and appearance of

conservation areas. Furthermore, the Framework sets out that as heritage assets are irreplaceable, any harm to or loss of the significance of the asset requires a clear and convincing justification.

7. The CA is principally a commercial area, with terraced rows of retail and service uses along this part of Ablewell Street (the street). There are shop frontages at ground level with mixed uses above. The buildings are generally 3 stories high with some 2-storey buildings, many having ornate detailing at upper floor levels, creating architectural interest to the area.
8. There have been a number of unsympathetic alterations to the buildings, particularly at ground level. This includes the introduction of external roller shutters and replacement shop windows of non-traditional character. There are also a number and mix of type and size of advertisement displays along the street, although none are of the scale and nature proposed.
9. The display would be on the edge of a petrol filling station forecourt. In its proposed position, it would part obscure 2 windows in the side elevation of the adjacent building. The windows in the side of this building have a strong continuous rhythm along the side elevation and are of traditional design providing a pleasant side elevation view within the conservation area. The display would therefore interrupt this rhythm and detract from the character and appearance of the building and CA.
10. Whilst there have been unsympathetic changes made to buildings in the CA, that include the introduction of non-traditional advertisement displays, there are none of the scale and digital nature proposed. The proposed digital illuminated display of some 6 metres by 3 metres with changing display would therefore be an incongruous addition within the CA.
11. The fact that there are a number of other advertisement displays in the surrounding area, including at the petrol filling station, does not justify a further large display adding to the clutter of advertisements. Furthermore, even though the proposed display would be seen in the context of the petrol filling station advertisements, it would not appear subservient to such.
12. The scale, position and digital changing nature of the sign would make it overly prominent in the street scene and detract from the character and appearance of the surrounding area. It would not therefore preserve or enhance the character of the CA.
13. Since the CA is already 'at risk,' it is additionally important that further alterations or additions are not introduced that would fail to preserve or enhance the CA, as this would add to its visual decline. As the proposal would be harmful to the character and appearance of the CA, it would have an unacceptable negative effect on the visual amenity and character of the area.
14. It is appreciated that the PPG advocates siting adverts in commercial and industrial areas of towns and cities, adjacent main roads, where their impact is commensurate to such settings. Whilst the appeal site is within the town centre and principally a commercial area, it is also within a conservation area and unacceptable harm would be caused to the character and appearance of the CA. Accordingly, having regard to the individual merits of the proposal, the display would not be acceptable in this location.

15. In view of the above, the proposed display would cause unacceptable harm and would not preserve or enhance the character and appearance of the CA as a whole. The proposal would not therefore positively contribute to and so, would be harmful to the amenity of the area. Accordingly, the requirements of the Regulations and the Framework would not be met. Additionally, for such reasons, the display would conflict with saved Policies GP2 and ENV32 of the Walsall UDP (2005), Policies EN5, APPLV5, APPLV6 and APPLV7 of the Walsall Site Allocation Document, Policies ENV2, and ENV3 of the Black Country Core Strategy (2011), Policy DW3 of Designing Walsall SPD (2008).

Public safety

16. There are traffic lights with pedestrian crossings and a 4-way road junction in close proximity to the appeal site. Also, Ablewell Street is a busy main road on a bus route with on street parking along the western side of the road. In view of the location and surrounding context there is the potential for harm to highway safety.
17. The display would, however, be set a sufficient distance from the traffic lights and pedestrian crossing points, to ensure no likely harmful conflict with them. Also, it would be seen against the backdrop of an adjoining building, which would reduce potential distraction to those using the highway on approach from certain directions.
18. The appellant's statement of case confirms that a condition can be imposed to ensure a default black out mechanism if the display is faulty. Also, they note that one of the standard conditions set out in Schedule 2 of the Advertisement Regulations requires that no advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air. Accordingly, subject to conditions, it could be ensured that the concerns of the Council are addressed in regard to public safety.
19. In view of the above, I concur with the Council's highway development control officer, that there would be no harm caused to highway safety, subject to conditions. Therefore, the proposed display would be acceptable on public safety grounds and would not conflict with the Framework in this regard.

Other Matters

20. The appellant has provided a copy of an appeal decision in relation to an advertisement display in Manchester. However, as I do not have full details of this case and that it is not within the same area, I am not able to fully compare this to the appeal proposal. Therefore, I have given no weight to this in my decision.
21. The appellant has implied that the Council did not prepare a report, and therefore in their view, there is little substantive reasoning or evidence to underpin the decision of the Council. I however note that the Council has provided a delegated officer report setting out its reasoning and provided other evidence in support of their concerns.

Conclusion

22. For the reasons given above I conclude that the display of the advertisement would be detrimental to the interests of amenity and the appeal is dismissed.

C Billings

INSPECTOR