



Appeal Decision

Site visit made on 24 July 2023 by A Coombes

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/F3545/Z/23/3316751

Barton Mills Service Station, Fiveways, Barton Mills, Suffolk IP28 6AE

- 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 Motor Fuel Group Ltd against the decision of West Suffolk Council.
 - The application Ref DC/22/0222/ADV, dated 4 February 2022, was refused by notice dated 22 December 2022.
 - The advertisement is an EV Pole sign.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The advertisement was in situ at the time of site visit and accords with the drawings before me. I have therefore considered the appeal on this basis.
4. National Highways highlighted the need for a Safety Risk Assessment (SRA) at the time of application however one was not submitted at that time. The appellant submitted an SRA as part of their Appeal Statement. Under the appeal procedure being followed in this case, there would not normally be an opportunity for the Council to respond. However, the SRA was new material evidence that was not before the Council at the time it made its decision and therefore, in the interests of fairness, the Council and National Highways were given the opportunity to respond. The appellant submitted a revised SRA in response, on which National Highways has commented. I have taken this further evidence into consideration when assessing the appeal scheme.
5. The control of advertisements is exercisable only with respect to public safety and amenity. Regulation 3 states that powers in this regard shall be exercised taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.

Main Issues

6. Therefore, the main issues are the effect of the advertisement on the visual amenity of the area and on public safety.

Reasons for the Recommendation

7. The appeal site forms part of the Barton Mills Services, accessed from the busy Fiveways Roundabout via the A11. Comprised of a filling station forecourt and retail, the site and area immediately around the roundabout are commercial in character, with some advertising in place. Beyond the roundabout are areas of woodland and countryside.

Amenity

8. The appeal advertisement is situated on the grass verge next to the A11, in close proximity to another large totem sign. The appeal advertisement, which solely advertises the electrical vehicle charging facility, is of a height that competes with both the service station building and attached advertising and the existing totem sign. Due to its height and position it is a dominant feature in views from the A11, despite the presence of other advertisements and tall structures.
9. I acknowledge that advertisements of this nature should be of a size that can be easily interpreted by drivers. However, the National Planning Policy Framework (Framework), cautions that the quality and character of places can suffer when advertisements are poorly sited and designed, and the appeal advertisement is an example of this. The character of the service station is commercial and, in principle, an advertisement would not be incongruous to the area. However, there are already numerous advertisements within a relatively small space, some of significant size. Combined with these, the appeal advertisement creates a cluttered appearance even when considered in the wider context of highway lighting and road signage infrastructure. Therefore, it is not sympathetic to its surroundings and does not respect the character and scale of the locality and has a detrimental impact on visual amenity.
10. On the site visit I observed other examples of totem or tall signage elsewhere within the area. However, these examples were independent of, or located at a sufficient distance from, other advertisements and therefore did not result in visual clutter. Although large, in most cases they advertised multiple facilities or retailers, like the other larger signs at the appeal site.
11. The appellant has also provided an example advertisement appeal (APP/J3720/Z/17/3177680). Whilst the character of that area appears to be similar to the appeal site, the Inspector makes no reference to other signage nearby. That advertisement was also significantly smaller than the scheme before me. Consequently, these examples are materially different to the proposed scheme, which causes visual clutter and is of an inappropriate scale. Therefore these examples do not justify the harm that would result from this proposal.
12. I have taken into account Policies DM2 and DM38 of the Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document (LP), adopted 2015, which seek to protect amenity and so are material in this case. Given that I have concluded that the advertisement harms amenity, it conflicts with these policies.
13. I have also had regard to Policy CS 5 of the Forest Heath Local Development Framework Core Strategy Development Plan Document 2001-2026 (CS),

adopted 2010. This Policy refers to development however, and advertisements are not development for the purposes of planning legislation, so it is not directly relevant to the proposal before me.

Public Safety

14. The Planning Practice Guidance sets out the main types of advertisement which may cause danger to road users, however this is not an exhaustive list. The appeal advertisement is sited in a location where, if it fell, it could affect the A11. Therefore, it is a potential hazard to highway safety.
15. Despite the various versions of the SRA that were submitted by the appellant, the Council and National Highways continue to have concerns about the content of the document and the consequent risks from the sign. The SRA is inconsistent in its consideration of the parties that might be affected by the advertisement. For example, first the SRA states that road workers and other parties would not be affected by the totem sign, then assesses potential risks to road workers. The potential for other parties such as service station employees to be at risk has not been assessed, despite being raised by National Highways.
16. The updated SRA also does not provide sufficient information to assess the risks from errant vehicle strike or reassurance that the electrical supply would be safely isolated in the event of damage. Nor does it adequately explain the detail of how the sign would be maintained. For example, it mentions use of mobile elevating work platforms but not where these would need to be sited for maintenance, and whether this would require traffic management on the A11 to ensure safety of workers and road users.
17. Accordingly, the SRA does not give me sufficient confidence that all risks have been fully assessed, and that the risk values set out in that document are therefore correct. Even if they are correct, there is insufficient information before me to be able to word conditions to ensure that appropriate control measures are put in place to ensure public safety.
18. Furthermore, the siting of the appeal advertisement means that it is seen after the other totem sign. There is therefore potential for electric vehicle (EV) users to see it late on approach to the service station. 'Range anxiety' can affect EV drivers even if they are not yet at sufficiently low charge for their vehicle to warn them, as they may be concerned about the distance to the next available charging point. There is therefore potential that they make a late decision to enter the services once they see the advertisement, which may involve late braking or lane changes, a risk to other road users and people near the service station entrance.
19. On the site visit I observed several instances of drivers already on the roundabout changing lanes at short notice. Consequently, it has not been demonstrated that it is very unlikely that a driver would make a late decision in this manner, as the appellant suggests, and the risk of such an incident has not been assessed.
20. Therefore, I must err on the side of caution in respect of these issues in the determination of this appeal. The advertisement presents several potential risks to public and highway safety, and it has not been demonstrated that

these can be adequately mitigated. Therefore, the advertisement harms public safety.

21. I have taken into account LP Policy DM38, which seeks to protect public safety and so is material in this case. Furthermore, LP Policy DM2 resists design that does not maintain or enhance the safety of the highway network. Given that I have concluded that the advertisement harms public safety, it conflicts with these policies.

Other Matters

22. I acknowledge that the sign is important for notifying drivers of the charging facility. However, there is no evidence before me to suggest that this could not be achieved through a less harmful scheme.

Conclusion and Recommendation

23. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

A Coombes

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree with the reasoning. The advertisement harms amenity and public safety and there are no material considerations or other relevant factors that justify granting consent. On that basis the appeal is dismissed.

L McKay

INSPECTOR