



Appeal Decision

Site visit made on 30 August 2023

by A Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th September 2023

Appeal Ref: APP/E2340/Z/23/3319050

Land adjacent To Matalan, North Valley Road, Colne BB8 9DR

- 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 ARM Capital against the decision of Pendle Borough Council.
 - The application Ref 22/0836/ADV, dated 13 December 2022, was refused by notice dated 1 February 2023.
 - The advertisement proposed is the installation of a single digital billboard.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address on the Council's decision notice and the appellant's appeal form more accurately reflects the location of the appeal site than that on the application form. I have therefore used it in the banner heading above.
3. Regulation 3(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) states the power to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. Therefore, while the Council has cited the National Planning Policy Framework (the Framework) and Policy ENV2 of the Borough of Pendle Local Plan: Part 1 Core Strategy 2011-2030 (PLP) in its decision notice, and I have taken them into account insofar as they are material, they have not been decisive in my decision.

Main Issues

4. The main issues are the effect of the proposed advertisement on amenity and public safety.

Reasons

Amenity

5. The Regulations advise that consideration of amenity includes the general characteristics of the area¹. The appeal site comprises a sloping grassed verge that is located between a footway on the southern side of North Valley Road and the side elevation of a large retail building occupied by Matalan. The grassed verge includes a row of trees that partially screen the building and its car park, which is located at a lower ground level to North Valley Road and provides positive vegetative relief to this otherwise built-up area.

¹ Section 3(2)(a) of the Regulations

6. The immediately surrounding area is predominantly commercial in character. However, the site is positioned close to a signalised junction, beyond which, the character of the area becomes more mixed with residential properties predominant on the opposite side of the road. Whilst there are some large fascia and totem style signs in the vicinity, large digital display advertisements are not prevalent.
7. Although structural calculations and a visualisation of the proposal has been provided, due to the sloping nature of the site, I cannot be certain which ground level has been taken upon which to locate the proposal. Even if the lower ground level immediately adjacent to the path around the Matalan building has been taken, the size and height of the proposal would create an overly prominent feature in this location adjacent to the footway. Moreover, it would diminish the pleasant appearance and relief that is currently provided by the landscaped verge along this busy main route through the town.
8. While the Planning Practice Guidance (PPG)² indicates that advertisements that may otherwise be refused may be permitted in commercial areas, it does not logically follow that any advertisement would be acceptable in such a context. Moreover, although the site is not affected by any heritage designation, the area still has qualities that are worthy of protection from unsuitable siting and appearance of the proposal.
9. Even though there are totem signs along North Valley Road in proximity to the appeal site, these are vertical structures which relate to the businesses located within their associated retail parks. The proposal would dominate the width of the grassed verge and, due to the relatively low height of the Matalan building, it would appear bulky and intrusive. Moreover, it would introduce further visual clutter to the street scene which would harm the appearance of the area.
10. Although the levels of luminance of the display could be controlled and would not exceed the guidance set out by the Institute of Lighting Professionals, the proposed LED display would be a significantly prominent feature in the street scene, particularly at night and in low daylight conditions. Even taking into account the busy commercial surroundings and streetlights, the proposal would appear incongruous in its context.
11. For the above reasons, the proposal would significantly harm the visual amenity of the area. Insofar as it is a material consideration, the proposal would be contrary to Policy ENV2 of the PLP which seeks to, amongst other things, ensure that all development delivers the highest possible standards of design. This conclusion is supported by paragraphs 134 and 136 of the Framework which notes that the quality and character of places can suffer when advertisements are poorly designed or placed, as I find this proposal to be.

Public Safety

12. The Regulations advise that factors relevant to public safety include, amongst other things, the safety of people using any highway, and whether proposals would obscure or hinder the ready interpretation of any traffic sign³. The PPG notes that advertisements are intended to attract attention but that those sited

² Ref ID:18b-079-20140306 of Planning Practice Guidance

³ Section 3(2)(b) of the Regulations

at points where drivers need to take greater care may be more likely to affect public safety.

13. I saw at my site visit that North Valley Road, albeit a snapshot in time, was busy, even during a mid-week lunch-time. Although flat and relatively straight, North Valley Road accommodated vehicles that were both changing speed and stationary. Several pedestrians were also crossing without using pedestrian refuges and there are retail parks on both sides of the road along with fast food outlets. The site is also close to a four arm signal controlled box junction with Windsor Street, Langroyd Road and Windy Bank, which includes pedestrian crossing facilities and refuges. Drivers would require high levels of concentration with due care and attention for other road users when travelling through the junction and the immediate stretch of North Valley Road adjacent to the appeal site.
14. The proposed digital billboard would be angled towards North Valley Road on the approach from the east. Drivers would have to navigate the signalised junction before reaching the billboard, which would be visible just beyond a pedestrian refuge and adjacent to a right-turning lane to Glen Street.
15. Evidence from the Highway Authority notes that there have been 2 collisions in the past 5 years between the signalised junction and Glen Street, one of which was serious. There is therefore a potential risk to public safety for drivers of vehicles/motorbikes or cyclists approaching the junction from the east. On approach from the west, due to the one-sided form of the proposal, no digital screen would be visible.
16. The proposal would be located within the predominantly commercial part of North Valley Road, where the PPG sets out that there are less likely to be road safety problems. Nevertheless, nearby Langroyd Road, Windsor Street and Glen Street are predominantly residential areas. A modest amount of footfall to and from the retail parks and the town centre would be generated from these areas which would give rise to an increased potential for conflict between pedestrians and vehicles.
17. Due to buildings on either side and because the traffic signals on Langroyd Road are set back from the junction, there is limited visibility towards North Valley Road in each direction. During my site visit, I was able to turn right from Langroyd Road onto North Valley Road. Once on North Valley Road, the right turn lane to Glen Street was immediately evident. However, I saw that the appeal site would also be immediately apparent. The location of the proposal is clearly at a point where drivers need to take more care and where local conditions present potential traffic hazards.
18. Because of its size and position, the proposed digital billboard would represent a significant distraction for drivers who may wish to turn onto Glen Street soon after entering North Valley Road. It would also distract drivers from anticipating the right turning lane to access the Lidl and Tkmxx car park further along North Valley Road.
19. I have had regard to concerns relating to the potential for the proposal to interfere with the eye line of the traffic signal heads at the junction. However, even if the base of the proposal was taken from the level of the adjacent footway, the height of the proposed billboard would not interfere with views of the traffic signals. Nor would it interfere with views of the traffic signals at the

junction of North Valley Road, Hanover Street and the North Valley Retail Park when travelling west due to existing trees and a slight curvature in the road.

20. Notwithstanding the proposal would not obscure traffic signals or signs, due to the proximity of the four-arm junction, its heavily trafficked use, particularly from vehicles exiting Langroyd Road, together with the proximity of the right turning lane to Glen Street, the proposal would be an unacceptable distraction to drivers.
21. I note the suggestion that both the level of illumination and the rate of change could be controlled by condition, but do not consider that such conditions could overcome my fundamental concerns over the overall effect of an illuminated digital billboard in this location where drivers need to take more care.
22. On the above basis, I conclude that the proposal would have an unacceptable effect on highway safety and thus harm public safety. Insofar as they are relevant to consideration of the effect of the proposal on the interests of public safety, I have had regard to paragraphs 111 and 136 of the Framework in respect of its aim to control advertisements in the interests of public safety.

Other Matters

23. The appellant has suggested that the proposal would reduce visual clutter by allowing consolidation of other advertisements around the area. However, there is nothing before me, such as a commitment by any other parties to use the proposed digital billboard to suggest that this would be the case. I cannot therefore be certain that the proposal would replace any advertisements in the area. As such, I give this matter little weight.
24. I have considered there may be benefits associated with new, efficient and modern digital displays. However, as noted above, the assessment of proposals for advertisement consent is based on the Regulations and confined only to interests of amenity and public safety. As the visitor experience and environmental benefits the appellant refers to are not material to the matters of amenity or public safety they cannot be taken into consideration.
25. My attention has been drawn to several examples of signage in Bradford, Wakefield and London. However, the full details of these examples are not before me. The circumstances in each proposal are likely to be different, and in any event the fact that an apparently similar advertisement has been granted consent is not a reason, on its own, to allow unacceptably located advertisements. I have considered this appeal proposal on its own merits.
26. I note the appellant's frustration with the Council's handling of the application. However, this has had no bearing on the outcome of this appeal as I have only had regard to the planning merits of the proposal that is before me.

Conclusion

27. For the reasons given above and having had regard to all other matters raised, I conclude that the proposal would be harmful to amenity and public safety. Thus, the appeal is dismissed.

A Veevers

INSPECTOR