



Appeal Decision

Site visit made on 11 July 2023

by Jack Alexander Smith MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/Z4718/Z/23/3317865

Gable end of 367-369 Bradford Road, Littletown, Liversedge WF15 6DB

- 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 Poster Property Limited against the decision of Kirklees Metropolitan Council.
 - The application Ref 2022/64/93343/E, dated 5 October 2022 was refused by notice dated 16 January 2023.
 - The advertisement proposed is the upgrade of an existing 48 sheet advert to support a digital poster.
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Decision

1. The appeal is allowed and express consent is granted for the display of the upgrade of an existing 48 sheet advert to support a digital poster as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:
 - 1) The intensity of the illumination of the sign permitted by this consent shall be no greater than 300cd/m² in the hours of darkness. During the daylight hours the luminance shall be controlled by sensors and/or timers to reflect ambient light conditions. At all times the display shall operate within that recommended by the Institution of Lighting Professionals in its Professional Lighting Guide 05 (PLG 05) Brightness of Illuminated Advertisements (or its equivalent in a replacement guide).
 - 2) The minimum display time for each advertisement shall be no less than 10 seconds.
 - 3) Changes between advertisements are to take place instantly with fade effect and no other sequencing, swiping or merging effects. The advertisement will contain no moving images.
 - 4) No individual advertisement displayed shall at any time contain moving images, animation, intermittent or full motion video images, audio, directional symbols or any images that resemble road signs or traffic signals.
 - 5) The advertisement display shall at all times contain a feature that will turn the display off (showing a black/blank screen) in the event of malfunction or error.
 - 6) The advertisement display shall not be illuminated between the hours of 23:00 and 06:00.

Main Issue

2. The main issue is the effect of the proposed advertisement on public safety, with particular regard to road users travelling along Bradford Road.

Reasons

3. The proposed location of the advertisement would be located on the gable elevation of 367 and 369 Bradford Road. A 48-sheet advertisement currently exists in this position. The proposal would stand at a right angle to Bradford Road, facing towards the junction of Listing Lane and Valley Road in a similar position to the existing 48-sheet display. It would be in the view of road users travelling west. By the site, Bradford Road is generally straight. There is a staggered crossroads with a pedestrian crossing point to the east of the site, and a side road to the west of the site. The approach towards the proposed advertisement is open with wide pavements and grass verges, and a central reservation. Alongside the road beside the proposal is a continuous demarcated parking bay.
4. When approaching the proposed advertisement, it would be viewed from a long distance on approach along Bradford Road. It would also be visible when turning onto Bradford Road from Listing Lane and Valley Road. This is similar to the existing situation.
5. I acknowledge the three traffic injury accidents in the previous five years at the junction of Listing Lane and Bradford Road travelling towards the existing advertisement. These accidents are summarised as being the result of careless/reckless driving and failing to look properly. However, there is no detail on these statistics on what caused the carelessness or failure to look properly in those cases.
6. Moreover, this is a proposal to replace an existing advertisement by similar size and position, albeit with a digital display. There is no evidence before me to suggest that the digital display would cause a distraction to the highway and cause unacceptable risk, on reflection of the existing situation. There is also no evidence before me which suggests that the existing advertisement was a contributing factor to the three accidents cited. I therefore do not find any reason to suggest that a digital display in this position would cause a detrimental impact on public safety, with regard to highway safety.
7. A series of conditions have been suggested by the appellant and the Council. These would mitigate the risk of distraction from the digital nature of this proposal.
8. To conclude, the upgrade of an existing 48 sheet advert to support a digital poster would not cause road users to be distracted. There would be no prejudice to public safety, with particular regard to people travelling on Bradford Road.
9. I have taken into account Policy LP21 of the Kirklees Local Plan 2019 which states that proposals shall demonstrate mitigation measures to avoid a detrimental impact on highway safety and so is material in this case. Given I have concluded that the proposal would not prejudice public safety, the proposal does not conflict with this policy.

Other Matters

10. I note the comments made on the application submitted for this proposal with regard to amenity, particularly during night hours. In this road during the hours of darkness, lighting comes from streetlamps and from neighbouring buildings, which overall create a relatively dark street scene. This is due to there being no obvious large sources of light in the local street scene.
11. 48-sheet illuminated advertisements are not a characteristic feature of the night-time street scene here. The proposal would undermine the less commercial character of the street scene. A condition has been proposed to restrict the operational hours of the digital display by the Council and this is considered necessary in this instance after taking into account Policy LP24 and LP25 of the Kirklees Local Plan 2019.
12. These policies seek to ensure good design and to respect the character of the locality. These policies are material in this case given that I have concluded that 48-sheet illuminated advertisements are not a characteristic of this street scene. Therefore, the proposal would conflict with this policy. However, the inclusion of a condition to restrict the operational hours of this display would ensure that the amenity of this locality would not result in a level of unacceptable harm by the proposed 48-sheet illuminated advertisement.

Conditions

13. The local planning authority and the appellant have provided conditions which are similar. These conditions allow the proposal to be acceptable in planning terms. These are considered necessary in the interests of highway safety through limiting the minimum advert change time and its effects to reduce the effect of the proposal on highway users. These have been reworded where appropriate.
14. In addition, the Council has suggested a condition to stop the hours of illumination between 23:00 and 06:00. I consider that this is necessary in the interests of amenity.
15. To prevent visual intrusion and distraction to road users, it is necessary to apply condition 1 to control the illuminance of the advertisement so that they do not stand out significantly in the street during darkness. The appellant and the Council have considered that the level of illuminance should be no greater than 300cd/m². Given the location of the proposal within a non-commercial and dark characteristic of the street, I consider that this is a reasonable illuminance limit.
16. To avoid the risk of distraction to drivers, it is also necessary for conditions to avoid special effects, moving or sequencing images, ensure a minimum display time, reduce the rate of change of images to instantaneous and to contain a safety feature that will turn off the display in the event of malfunction or error.

Conclusion

17. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

J Smith MRTPI

INSPECTOR