



Appeal Decision

Site visit made on 8 August 2023

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2023

Appeal Ref: APP/M2372/Z/23/3315571

16 Preston New Road, Blackburn BB2 1AW

- 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 Mr Zahir Ahmed against the decision of Blackburn with Darwen Borough Council.
 - The application Ref 10/22/0967, dated 11 October 2022, was refused by notice dated 6 December 2022.
 - The advertisement proposed is Digital Internally Illuminated Outdoor LED Advertisement Screen.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has drawn my attention to Development Plan policies it considers relevant to this appeal and I have taken them into account where relevant. However, powers under the Regulations¹ to control advertisements may be exercised only in the interest of amenity and public safety, taking account of any material factors. The Framework and the Planning Practice Guidance reiterate this approach.

Main Issue

3. The Council has no objection to the proposal on the grounds of amenity. From the evidence before me, and from my observations, I have no reason to disagree with the Council on these matters.
4. Therefore, the main issue is the effect of the advertisement on public safety with particular regard to the safety of highway users.

Reasons

5. The National Planning Practice Guidance (PPG) states that all advertisements are intended to attract attention. However, those proposed at points where drivers need to take more care are more likely to affect public safety. Furthermore, it advises that the main types of advertisement which may cause danger to road users are those which are illuminated which could be mistaken for, or confused with, traffic lights and those subject to frequent changes of the display. Moreover, those which, because of their size or siting, would obstruct or confuse a road-user's view, or reduce the clarity or effectiveness of a traffic sign or signal can also pose a risk to highway safety.

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

6. The appeal site is at a traffic light controlled junction with Barbara Castle Way and Preston New Road in the form of crossroads. The junction is complex and includes pedestrian crossing points and right hand turning is allowed at each arm of the junction. At the time of my visit the junction was busy with traffic queues in all directions.
7. The proposed advertisement would not be visible to drivers approaching the crossroads along Preston New Road in a north-westerly direction and would not be unduly prominent to drivers of vehicles approaching the junction from Barbara Castle Way from each direction.
8. However, for those drivers approaching the junction along Preston New Road in a south-easterly direction, towards the junction, the advertisement would be highly prominent. The advertisement would be unlikely to be confused with the traffic lights. However, it would be located in close proximity to them and there would be a high probability that a driver's attention would be diverted by the illuminance and changing imagery of the advertisement at a point in the road where attention would be required to focus on traffic signals and road conditions, including pedestrians crossing and lane selection. Such a loss of concentration to the highway conditions, even momentarily would be likely to result in harm to highway safety to both pedestrians crossing Preston New Road and to vehicles approaching the junction along this road.
9. Both parties submitted highway evidence. From the information before me, it appears that the main concerns are in relation to the position of the advertisement and whether it would be above the signal head and the collision record for the junction. I have found that the advertisement would be unlikely to be confused with the signal heads, however due to the proximity of them, both the signals and advertisement would appear in the same view when drivers' attention is focussed on the junction and so would be harmful to highway safety for the reasons given.
10. Although the collision data shows that there has been a reduction in accidents at the junction following the introduction of recent highway measures and LED advertisements are increasing in many areas, there may be an increased distraction to drivers that may increase the risk of accidents at the junction.
11. The presence of the proposed advertisement would provide a distraction to drivers at a point where they need to be concentrating on the local highway conditions and a momentary lapse in concentration as a result of the advertisement would be likely to result in harm to public safety for the reasons set out above. Accordingly, the proposed advertisement would result in unacceptable harm to public safety with particular regard to the safety of road users, in conflict with Policy 43 of the Blackburn with Darwen Local Plan Part 2 (2015) which seeks to ensure that outdoor advertisements do not distract the attention of users of the highway.

Other Matters

12. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The appeal site is within, but on the edge of the Northgate Conservation Area (CA) which is characterised by 19th and 20th century commercial buildings. The appeal site faces away from the CA and is the gable wall of a row of buildings in mixed

commercial use. It lies within an urban area where advertisements such as this might be located and therefore would preserve the character or appearance of the CA.

13. I have had regard to the examples of advertisements submitted by the appellant. As I do not have all the details before me, I cannot be certain that the circumstances are directly comparable to this case. One of the appeals referred to relates to the varying and removing of conditions for an approved advertisement, which again is not directly comparable. In any event, I have determined this appeal on its own merits based on the site-specific circumstances of the case.
14. I note the appellant's concerns regarding the Council's handling of the case. However, this is a matter that would need to be taken up with the Council in the first instance. In determining this appeal, I am only able to have regard to the planning merits of the case.

Conclusion

15. The proposed development conflicts with the development plan in so far as it relates to public safety. I therefore conclude that the appeal is dismissed.

H Senior

INSPECTOR