

Appeal Decision

Site visit made on 7 November 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2023

Appeal Ref: APP/A1530/Z/23/3323929

53 Harwich Road, Colchester, Essex CO4 3BP

- 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 Alight Media against the decision of Colchester Borough Council.
 - The application Ref 230859, dated 3 April 2023, was refused by notice dated 1 June 2023.
 - The advertisement proposed is a new single illuminated 48-sheet digital advertisement display.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Powers under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) to control advertisements may only be exercised in the interests of amenity and public safety. I have therefore taken Policy SP7 of Section 1 of Colchester Borough Local Plan 2021 (CLP Section 1) and Policies DM15 and DM16 of Section 2 of the Colchester Borough Local Plan 2022 (CLP Section 2) into account insofar as it is material, but they have not been decisive in my decision.

Main Issue

3. The main issues are the effect of the advertisement on:
 - the amenity of the area; and
 - highway (public) safety.

Reasons

Amenity

4. The advertisement would be fixed to the gable end of No. 53 Harwich Road, a residential property close to the roundabout intersection of Harwich Road with St Andrew's Avenue, a busy dual carriageway close to Colchester city centre. It would measure approximately 6.0 metres x 3.0 metres. The hoarding would comprise a digital LED panel showing instantaneously changing displays. The displays would be static but would change frequently (approximately every 10 seconds).
5. Three of the roundabout spurs have signalised pedestrian crossings with refuge islands. An existing digital 48-sheet advertisement display is located on the gable end of 78 Harwich Road, opposite the proposed location.

6. The scale of the advertisement would dominate the gable of the property and due to the stepped nature of the gable wall would appear awkward and incongruous. I recognise that the appeal proposal is located on a busy, well-lit road as identified above. Nevertheless, the proposal would appear intrusive and incongruous in its context.
7. Although St Andrew's Avenue is a busy dual carriageway, the area is predominantly residential in character, and whilst there is one other advertisement panel close by in the vicinity, other advertisements are not prevalent in the vicinity of the appeal site. The proposal would be visible from properties on St Andrew's Avenue, which are set back and above the dual carriageway itself, and also from windows in the side elevation of 55 Harwich Road (No. 55) directly facing the appeal site. To a lesser extent, the display would also be visible from the upper floors of properties in Fairfield Gardens.
8. The Council considers No. 55 to be a non-designated heritage asset, and I have no reason to disagree. From my observations and from the evidence before me, No. 55 is a house typical of its age with traditional features, its prominent position set above the roundabout contributes positively to the character and appearance of the area. The digital display would be located facing the side elevation of No. 55, and although the area is heavily influenced by modern highways infrastructure, its form and presence would harm the character and appearance to its setting. This would cause less than substantial harm to the significance of the setting of the heritage asset which according to paragraph 203 of the Framework requires a balancing judgement.
9. Even taking into account the busy surroundings, the digital display would be an obtrusive addition in this particular location. Whilst light levels emitted would or could be reduced overnight, it would nevertheless be a bright feature in the streetscape.
10. The proposal would therefore be unacceptable in visual amenity terms, introducing visual clutter and thus harming the character and appearance of the area. Insofar as they are a material consideration, the proposal would be contrary to CLP Section 1 Policy SP7, and CLP Section 2 Policies DM15 and DM16 which seeks to ensure that all development is of high quality, responds positively to its context and respects the historic environment. It would also conflict with the design aims set out in paragraphs 130, 134 and 136 of the National Planning Policy Framework.

Public Safety

11. Digital advertisements of the size and form proposed are commonly experienced in an urban transport network. Consequently, having regard to the Planning Practice Guidance (the PPG), they are not generally of an 'unusual nature'. Therefore, they are generally unlikely to be a distraction to road users in normal driving conditions. However, The PPG¹ also advises that public safety could be affected where advertisements are located, for example, at junctions, roundabouts, pedestrian crossings, or other places where local conditions present traffic hazards.
12. In this instance, the proposed advertisement would be seen in tandem with an existing advertisement display when approaching the roundabout on Harwich

¹ paragraph 067 (Reference ID: 18b-067-20140306)

Road from the northeast, where a pedestrian crossing is located close to the roundabout. The rotation of the changing advertisement displays is unlikely to be synchronised and the two panels are unlikely to display the same advertisements at the same time. The intermittent changing of the advert display, albeit with almost instant transition, has the potential to distract motorists and create visual confusion for road users as they approach this busy roundabout and signalised pedestrian crossing, thereby posing a risk to pedestrians and other road users.

13. Although accident records at the roundabout in recent years have been low and the luminance levels could be controlled by condition the advertisement would be highly likely to draw motorists' attention which would cause a distraction close to a pedestrian crossing and on approach to the roundabout where a high degree of observation of other road users and care is necessary.
14. I acknowledge that the Highways Authority raised no objection to the proposal. However, I agree with the Council that the size, illumination and changing nature of the contents of the panel the proposed advertisement would be likely to be a distraction when approaching, negotiating, and leaving this busy multi-limbed roundabout, especially when approaching from the northeast and therefore there is real potential for an accident to occur as a result.
15. I therefore conclude that the proposed advertisement would unduly harm public safety for the reasons given above. In coming to my conclusion, I have taken into paragraphs 111 and 136 of the Framework in so far as they are material and conclude that the proposed advertisement would conflict with paragraph 136, in respect of its aim of protecting places from poorly sited advertisements and controlling advertisements in the interests of public safety.

Heritage Balance

16. Paragraph 199 of the Framework sets out that great weight should be given to the conservation of heritage assets. I have identified in my reasoning above that the proposal would cause less than substantial to the setting of No.55. Paragraph 202 of the Framework indicates that less than substantial harm to designated heritage assets should be weighed against the public benefits of the proposal. Paragraph 203 of the Framework requires a balancing judgement on the less than substantial harm caused to the setting of the non-designated heritage asset.
17. The proposal could be used to display emergency information which could be of benefit to the public. This is, however, a scheme considered under the advertisement regulations. In any event, I cannot be certain that this is what the advertisement would be used for. As a result, these matters are not sufficient to outweigh the adverse effect that the proposed installation would have on the character and appearance of the area and the setting of the heritage asset.

Other Matters

18. I note the benefits of the appeal proposal put forward by the appellant in terms of sustainable development and economic development. Whilst I acknowledge that there will be some economic benefits, these do not outweigh the harm that I have identified.
19. My attention has been drawn to other advertisement hoardings and digital advertisement displays in Colchester and other cities. The examples in

Colchester relate to externally illuminated traditional poster hoardings, benefitting from deemed advertisement consent. They are therefore not directly comparable with the case before me. I do not have precise details of examples in Sheffield or Manchester. The existence of other similar displays in other urban locations does not, in any event, equate to the acceptability of an advertisement hoarding in the location before me and neither example persuades me that the proposal is appropriate for this location. None of these matters raised outweigh the harm that I have identified above.

Conclusion

20. For the reasons given above I conclude that the display of the advertisement would be detrimental to the interests of amenity and public safety. Thus, the appeal is dismissed.

KL Robbie

INSPECTOR