



Appeal Decision

Site visit made on 5 September 2023

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd November 2023

Appeal Ref: APP/N4720/H/23/3327015

Land at 52 Westgate, Otley, Leeds LS21 3AX

- 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 Wildstone Group Limited against the decision of Leeds City Council.
 - The application Ref 23/02287/ADV, dated 23 March 2023, was refused by notice dated 7 June 2023.
 - The proposal is described as conversion of two advertising billboard displays to one D-poster advertising display.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of fairness and natural justice, I agreed to a change of appeal procedure in order to allow the Council and other interested parties an opportunity to comment on new highways evidence submitted with the appeal. I have taken the new evidence and all responses into account as part of my assessment.
3. As part of the appeal, the appellant is proposing additional conditions to secure the operation of the display. These would ensure that illumination at night is set to 65cd/m², while in daylight hours the display will reflect ambient conditions only. Additionally, the display will be switched off from 21:00hrs to 07:00hrs during the winter, and 22:00hrs to 07:00hrs in summer. No moving or special effects will be displayed and advertisements will rotate instantaneously at 10 second intervals. I have determined the appeal on this basis.
4. The Regulations to control advertisements require that decisions are made only in the interests of amenity and public safety, taking account of any material factors. Therefore, while I have taken account of the policies and guidelines that the Council consider to be relevant, these have not been decisive in my assessment.

Main Issues

5. The main issues are the effect of the digital advertisement display screen on:
 - visual amenity, with due regard to the Otley Conservation Area; and
 - public safety.

Reasons

Amenity

6. The appeal site is within the Otley Conservation Area (the CA), which draws some of its special interest and significance from strong small-scale streetscapes of mostly traditional 19th and early 20th Century stone and slate roof buildings.
7. Westgate (A659) is a main thoroughfare through the CA and has a mixed commercial and residential character. The dominant urban form in the vicinity of the appeal site is traditional stone terraces of two-storey height, with retail and commercial uses at ground floor and residential accommodation above, although a larger Waitrose foodstore is set back from the road around 80m to the west.
8. The number of commercial uses in the vicinity means that advertisements are a feature of the street scene. However, apart from the two existing billboards at the appeal site, signage in the immediate vicinity is generally limited to small-scale individual shopfront fascias and occasional small-scale projecting signs. Many of the signs are not illuminated, but where they are, this is mostly by subtle forms of external lighting, with very few examples of internal illumination. Even the existing billboards at the site did not appear to be illuminated.
9. The Council advises that the existing billboards do not have any advertisement consent. Nevertheless, it would appear that they have existed for many years and may therefore benefit from deemed consent. The proposal would reduce the number of displays at the site from 2 to 1. This would limit the area of advertisement by half and reduce clutter, which could be an improvement.
10. That said, the existing billboards are sited parallel with the road. This, in combination with the relative permanence of the images, muted texture of the paper surface and timber surround, and an apparent absence of illumination, means that they have a somewhat subdued appearance, notwithstanding their large size.
11. The appellant suggests that the proposed digital advertising screen would mimic the appearance of a paper advertisement through use of software and sensors, with various images provided purporting to show this. Reference is also made to a similar existing digital advertisement which was approved by the Council approximately 355m from the appeal site.
12. However, based on all that I have seen and read, I consider that the proposal would have a plainly different, brighter, and more obvious appearance than the paper advertisements currently in place, even during the daytime. This would contrast noticeably with the muted context of the surroundings and would be unlike anything else it would be experienced with in the immediate vicinity. I also note that the proposal would be slightly taller than the existing billboards and angled more towards the west, making it more prominent in views from that direction. Moreover, as the images on the display screen would change at regular short intervals, it is unlikely that the proposal would be able to assimilate within the surroundings over time.
13. Consequently, the proposal would be significantly more prominent and eye catching than the existing paper advertisements at the site, making it stand

out as an overprominent and incongruous feature that would show little respect for the qualities and character of the historic environment in which it would be experienced. I am not persuaded that the adverse visual effects could be adequately mitigated by controlling the brightness and hours of illumination, as suggested by the appellant. Furthermore, the mere fact that other similar digital advertisement screens have been permitted elsewhere, including on Westgate, does not set any precedent for harmful development at the appeal site.

14. I do however consider that the measures proposed by the appellant in terms of luminance levels, and the timing and method of operation, would be sufficient to ensure that there is no harm to the living conditions of nearby residents given the angles and separation distances involved.
15. Overall, the proposed digital advertising screen would be a visually harmful addition to the street scene in this location, and so, would not preserve or enhance the character or appearance of the CA as a whole. The area's significance as a heritage asset would therefore be harmed. This is a matter of considerable importance and weight. Whilst the level of harm would be less than substantial, any public benefits derived either from the use of modern technology, or in economic terms derived from enhanced advertising at the site, would not be sufficient in this instance to outweigh the harm.
16. For these reasons, I find that the digital advertisement display screen would have a harmful effect on the visual amenity of the area.
17. Whilst not decisive, the proposal would also conflict with Policies BD8, BD9 and GP5 of the Leeds Unitary Development Plan (Review 2006) (UDP), as well as the Leeds Advertising Design Guide Supplementary Planning Document 2006 (SPD). When read together, these require illuminated signs, particularly in conservation areas, to be well designed, sensitively located within the street scene, and that proposals do not cause a loss of amenity. There is also conflict with Policies P10 and P11 of the Leeds Local Plan Core Strategy (2014; Selective Review 2019) (CS) which seek to ensure that proposals are appropriate to their context and respect the character and quality of their surroundings, and conserve and enhance heritage assets.
18. For the same reasons, there would also be conflict with the design and historic environment policies within the National Planning Policy Framework (the Framework) and in particular paragraph 136 which sets out that poorly sited and designed advertisements can have a negative impact on the quality and character of places.

Public safety

19. Westgate (A659) is a relatively busy two-way, single carriageway road through the town, and is also a bus route.
20. The proposed digital advertising screen would primarily be visible to north-eastbound traffic going into the town. The approach is relatively straight for just over 80m and traffic does not generally travel at speed. However, there are a variety of factors for drivers to take into account along this stretch of the road which adds complexity. This includes buses stopping and pulling away from the nearby north-eastbound bus stop, cars pulling in and out of different car parks, and pedestrians crossing at both the bus stop and at a zebra

crossing outside the Waitrose store. Given this context within a short stretch of road, drivers along it are already faced with increased cognitive demands which necessitates a high degree of concentration on the road.

21. For the reasons I have already set out above, the proposal would be a prominent and eye-catching feature, including during the day, with illuminated images that change every ten seconds. The appellant suggests that drivers would be unlikely to see more than one image on the approach. However, I disagree. The busy nature of the road, including requirements to stop or slow down, means that there would regularly be vehicles approaching the advertisement screen at the point when the image is programmed to change. The change itself would be instantaneous, but the content would be different, and together with the richness of image afforded by the digital technology, would be likely to attract attention at a time when the focus should be on other road users. I also note from the appellant's Statement that the display may potentially be used for public information messaging, including emergency messaging, which patently would attract attention.
22. Consequently, even taking into account that the display would be operated to industry standards and could be subject to further conditions to control the display, I consider that the proposal would provide an additional level of distraction for drivers in this location. This is a view shared by the Highways Authority. Even momentary distraction could reduce the time to assess potential risks such as stopping buses, merging vehicles, or crossing pedestrians, thereby increasing the risk of an accident in this location. Whilst this would only be the case when the screen is turned on, it would be operational for a significant proportion of the day and when vehicle and pedestrian traffic is busiest.
23. Indeed, the Planning Practice Guidance on advertisements states that all advertisements are intended to attract attention, but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. Furthermore, it advises that one of the main types of advertisement which may cause danger to road users are those which are illuminated, and those subject to frequent changes of the display. For the reasons above, the proposal can be treated as such.
24. I have had regard to the local accident data provided, which the appellant considers to be low for this stretch of road. While this may be so currently, it is not a justification for introducing a new distraction into this area to the detriment of public safety. I have also had regard to the research and case studies involving digital advertisements that are referred to in the appellant's evidence. However, the circumstances of each case will be different depending on the specific nature of the proposal and site-specific observations. Moreover, each of those cases were ultimately considered to be acceptable from a public safety perspective. In this regard, I have reached my own conclusions and my concerns relate, not to the principle of digital advertisements, but to the specific local conditions on this part of the highway.
25. I have also considered the potential effects of the proposal in relation to a future programme for highway improvement works some 55m north-east of the appeal site on Westgate. The drawings provided by the Highway Authority show the provision of a new signalised junction to serve a housing

development. Unlike another appeal decision highlighted by the appellant¹, it would appear that these planned works already have the necessary approvals in place. That said, I have not been provided with the specific details of the traffic signals, nor any firm timescales for the implementation. I am also mindful that there is still a possibility that aspects of the highway scheme could change. It is therefore difficult to properly assess how the proposal would relate to the new traffic signals. Nevertheless, as I have already identified harm based on the existing road conditions, this is not a determinative matter in this appeal.

26. For the reasons given, I find that the digital advertisement display screen would be harmful to public safety.
27. Whilst not decisive, the proposal would also conflict with Policy GP5 of the UDP, Policy T2 of the CS, and the SPD, in so far as they expect proposals to not create or materially add to problems of highway safety.
28. The proposal would also fail to accord with the Framework where it seeks to prevent the negative impact of poorly sited advertisements.

Other Matters

29. I have noted the variety of concerns raised by interested parties. These have been addressed above as far as they are relevant to the issues of amenity and public safety.

Conclusion

30. For the reasons given above, I conclude that the proposed digital advertisement display screen would be detrimental to the interests of amenity and public safety. Accordingly, the appeal should be dismissed.

A Caines

INSPECTOR

¹ APP/W4705/Z/22/3297511