



Appeal Decision

Site visit made on 14 November 2023

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2023

Appeal Ref: APP/W0734/Z/23/3331988

92 Ayresome Street, Middlesbrough TS1 4NJ

- 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 Middlesbrough Council.
 - The application Ref 23/0350/ADV, dated 23 June 2023, was refused by notice dated 21 September 2023.
 - The proposal is described as removal of existing paper and paste billboard and replacement with digital billboard.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 parties consider to be relevant, these have not been decisive in my assessment.
3. The appellant is agreeable to various conditions to secure the operation of the digital billboard. These would ensure that the display screen is switched off between 23:00hrs to 06:00hrs, and would place a limit on the brightness level during night-time hours. In addition, no moving or special effects would be displayed and advertisements would change instantaneously at a minimum of 10 second intervals. I have determined the appeal on this basis.

Main Issues

4. The main issues in this appeal are the effect of the digital billboard on amenity and public safety.

Reasons

Amenity

5. The appeal site is the west-facing gable end of a brick-built terrace at the corner of Ayresome Street and Ayresome Park Road. There is currently a large unilluminated paper and paste billboard at first floor level, which the appellant advises has been in place since 2009. The immediate surroundings are predominantly residential terraces with a few corner shops at ground level and the Sacred Heart RC Primary School immediately to the west of the site. A hand car wash is located further to the west past the school. While there is

some signage associated with the school and different commercial premises, these are limited in amount, scale, and illumination if any.

6. Due to the size of the existing billboard, the height at which it is displayed, and the open school grounds to the west, it can be clearly seen over some distance when approaching along Ayresome Street. In this view the existing billboard forms an unsightly feature, largely due to its size, prominence, and the uncomfortable way it is squeezed between the gable windows.
7. The replacement digital billboard of the same size and position would be even more conspicuous by reason of its digital illumination and sequential changing images. This would be the case even if the levels of illumination, hours of operation, and the speed and frequency of image transitions on the display screen were carefully controlled. It would be unlike any other form of advertisement in the immediate area, forming a highly obtrusive and incongruous feature which would appear inappropriately conspicuous in its context. This would be harmful to the visual amenity of the area, notwithstanding it is not a conservation area.
8. Furthermore, the digital billboard would be positioned up against two windows which appear to serve residential accommodation. Although the display would be switched off between 23:00-06:00hrs, it would still be operational for a significant period in hours of darkness, particularly in the longer winter evenings. Due to its size and proximity, the digital illumination of the billboard would likely be perceptible from the windows and cause some visual intrusion/disturbance for the occupiers of this residential property.
9. I therefore find that the proposed digital billboard would be detrimental in both visual and residential amenity terms. Whilst not decisive, the proposal would also conflict with Policies DC1 and CS5 of the Middlesbrough Core Strategy 2008 (the CS) in so far as they seek development that is compatible with its context and protects the amenity of neighbouring occupiers. It is also contrary to paragraph 136 of the National Planning Policy Framework (the Framework) which sets out that poorly sited and designed advertisements can have a negative impact on the quality and character of places.

Public safety

10. The digital billboard would face eastbound traffic on Ayresome Street. The Council's objection to the proposal on public safety grounds has been informed by an objection from the Highway Authority. Concerns are raised regarding the increased potential for distraction for motorists in a location close to a school and a road junction. It is advised that there have been a number of recordable accidents in the vicinity, with one classed as serious.
11. The approach to the site is relatively straight and vehicles do not travel at speed. However, the signalised pedestrian crossing outside the school entrance, as well as the general pedestrian and vehicle activity naturally associated with the school at peak times, means that drivers approaching the site are already faced with increased cognitive demands which necessitates a high degree of concentration on the road.
12. The appellant states that none of the recorded accidents in the vicinity were attributed to the existing billboard. However, for the reasons I have already set out above, the proposed digital billboard would be more eye-catching than

the existing non-illuminated paper billboard, including during the day. While the transition between adverts would be instantaneous, the content of each image would be different, and together with the vibrance and quality of image afforded by the digital technology, would be likely to attract the prolonged attention of an approaching driver at a time when the focus should be firmly on other road users. Even momentary distraction could reduce the time to assess potential risks such as crossing pedestrians, including young children, vehicles pulling into and out of the on-street parking bays, and merging vehicles at the junction, thereby increasing the risk of an accident in this location.

13. 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 size, siting, and nature of the digital billboard would be likely to provide an additional and unacceptable risk of distraction for road users in this location. Whilst the accident data is not a decisive factor by itself, it does provide some additional weight in support of my conclusions regarding the demands of the road environment at this point, and the increased hazard to road users the proposal would provide.
14. 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.
15. I therefore find that the proposed digital billboard would be harmful to public safety. Whilst not decisive, the proposal would also conflict with the highway safety expectations of Policy DC1 of the CS and the Framework.

Other Matters

16. The appellant has highlighted various examples and case studies where digital billboards have been approved, including at appeal. However, the impacts of each individual case will vary, depending upon the particular characteristics of the site and its surroundings. I have necessarily considered the appeal proposal on its own merits, and I have found that it would be harmful for its own specific reasons.
17. I have noted the variety of benefits that the advertisement may bring. However, these matters do not weigh in favour of the proposal as advertisement decisions are made only in the interests of amenity and public safety.

Conclusion

18. For the reasons given above, I conclude that the digital billboard would be detrimental to the interests of amenity and public safety. Accordingly, the appeal should be dismissed.

A Caines

INSPECTOR