



Appeal Decision

Site visit made on 7 November 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2023

Appeal Ref: APP/Z4310/Z/23/3326278

New Barratt House, 47 North John Street, Liverpool L2 6SG

- 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 Kerchof (Vabeld UK Ltd) against the decision of Liverpool City Council.
 - The application Ref 22A/2686, dated 30 September 2022, was refused by notice dated 26 May 2023.
 - The advertisement proposed is described as the conversion of roadside static advertising display to full-motion advertising display.
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Decision

1. The appeal is allowed and express consent is granted for the display of the conversion of roadside static advertising display to full-motion advertising display 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 levels of the illuminance shall not exceed 600cd/m² during daylight hours or exceed 300cd/m² during twilight and night hours; as defined by official lighting up times.
 2. The advertisement hereby approved shall not at any time be intermittent.

Applications for costs

2. An application for costs was made by Mr Kerchof (Vabeld UK Ltd) against Liverpool City Council. This application is the subject of a separate decision.

Main Issue

3. The main issue is the effect of the proposed advertisement on public safety.

Reasons

4. The appeal site forms the corner of a five storey building that faces the junction of North John Street and Lord Street. Despite this location on cross-roads, given the location of the site close to the main retail area in the City Centre, vehicular traffic is restricted to the east of the site along Lord Street and to the south, along South John Street. As such, the vehicular traffic flows are along North John Street and Lord Street to the west of the appeal site, and there was a regular flow of vehicles at the time of my visit with the Council identifying it as a high frequency bus route.

5. The proposal would utilise the existing advertisement¹ that extends from the first floor up to the fourth floor in a portrait format. It currently displays static images, with the proposal seeking to utilise the Light Emitting Diode (LED) panel to display full motion advertising.
6. The proposal would face to the south-west and be visible to traffic travelling eastbound on Lord Street. Given the generally straight alignment of Lord Street, the proposed advertisement would be seen by approaching traffic without causing a surprise to drivers close to the traffic signals. The height of the proposed advertisement above ground floor level relative to the traffic signals would also ensure that it would not be unduly distracting.
7. The unusual nature of the traffic signals at the junction to the front of the appeal proposal is noted, but there is nothing before me that sets out why this arrangement would increase cognitive demand on drivers or demand a greater level of concentration from them than other traffic signals. This junction does not have a complicated layout and the shuttle operation of the traffic lights permits movement in one direction at a time only along the main vehicular carriageway, other than those that accessing the pedestrianised area for servicing, deliveries and in emergencies.
8. The appeal site is in a location that is busy with pedestrians, and this is also reflected in the number of pedestrians using the crossings at this junction. Given the shuttle operation of the traffic signals, this would require a greater focus by pedestrians on the 'red and green man' signals, rather than relying on traffic that may have stopped in one direction, but where there may still be moving traffic in the opposite direction. These 'red and green man' signals are situated at a low level and as the Council acknowledge, the height of the proposed advertisement would be above the horizontal sight lines of the immediate junction and above the movement path of pedestrians. As such, I do not consider that the proposal would create an undue distraction for pedestrians to the detriment of their safety.
9. Although some pedestrians may behave erratically and attempt to cross when vehicles, cyclists and scooters are moving through the junction, there is good visibility in both directions along the main carriageway. The curvature in the road also limits the speed at which vehicles are travelling. I do not consider the highway layout is unduly constrained and the alignment of the main vehicular carriageway and the pedestrianised areas are clearly delineated by the differing surfacing materials.
10. I accept that full motion displays are intended to entice a viewer to watch an advertisement for a greater period than an advertisement on a static display. My attention has been drawn to a report² which sets out the impact of distraction from advertisements in certain circumstances. The National Planning Practice Guidance also identifies³ certain types of advertisement that could cause danger to road users. Nevertheless, in this case, I do not consider that the highway layout is complex, or the proposed advertisement would be unduly distracting for the reasons set out.

¹ LPA Ref: 17A/2368

² Guidance for Digital Roadside Advertising and Proposed Best Practice, 2013 (Transport for London)

³ Paragraph: 068 Reference ID: 18b-068-20140306

11. Reference has been made by the Council to two accidents in the area since the existing advertisement on the appeal site was brought into operation. The appellant has reviewed the accident data and this does not show a noticeable increase in accidents following the introduction of the existing advertisement nor does it demonstrate the existence of any other inherent highway safety issue. The Council has not disputed the appellant's analysis of accident records in the area around the appeal site and acknowledge that the referenced accidents cannot be attributed directly to the presence of the existing advertisement on the appeal site.
12. For the above reasons, I conclude that the proposed advertisement would not have an unacceptable harmful impact on public safety. I note that both the Council and the appellant make reference to a number of development plan policies, and also to the National Planning Policy Framework. Reference has also been made to other guidance. Whilst I have taken them into account as material considerations, the power to control advertisements under the regulations may be exercised only in the interests of public safety and amenity. Consequently, in my determination of this appeal, these matters have not, themselves, been decisive.

Other Matters

13. Reference has been made to a number of sites by the appellant that related to digital advertising displays with full motion advertising. It is evident from the information provided that the circumstances of those proposals on other sites were different in relation to the highway layout, the vehicular and pedestrian movements in relation to the advertisements, as well as the size and positioning of the advertisements in each of those cases. I can confirm that I have considered this appeal on its own merits.

Conditions

14. In addition to the standard conditions, I consider a condition to control the intensity of illumination is required in the interests of public safety and amenity. A condition is also required to prevent intermittent display of advertisements in the interests of public safety.

Conclusion

15. For the reasons given above, the display of the advertisement would not be detrimental to public safety. I conclude that the appeal should be allowed.

F Rafiq

INSPECTOR