



Appeal Decision

Site visit made on 16 May 2023

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18.12.2023

Appeal Ref: APP/R2330/Z/23/3330882

304 Whalley Road, Clayton-le-Moors, Lancashire, BB5 5QX

- 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 Estates Limited against the decision of Hyndburn Borough Council.
 - The application Ref 11/23/0280, dated 29 June 2023, was refused by notice dated 29 August 2023.
 - The advertisement proposed is described as 'Erection of new digital poster display'.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The Regulations require that decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework and the Planning Practice Guidance (the PPG) reiterate this approach. Therefore, while I have referred to some of the policies and guidance that the Council considers to be relevant to this appeal, these have not been decisive in my determination of this appeal.

Reasons

3. The main issue in this appeal is, therefore, the effect of the proposed advertisement on public safety. The development plan includes policy DM27 of the Council's Local Plan Development Management Policies Document (2018) (DPD) which says that public and highway safety will be taken into consideration when assessing whether an advertisement is acceptable. National policy in the Framework states that 'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety'.
4. The appeal site is located on Whalley Road, the A680, a busy main road which links Clayton-le-Moors with Accrington and with the A6185 and, in turn, the M65, a short distance to the south. The site is located in an urban location in an area of mixed commercial and residential uses on land which lies between two residential properties and adjoins the narrow footway close to the southbound carriageway. The Council acknowledges that this is an established area for advertisements and I noted at my visit illuminated signs at a hot food takeaway on the opposite side of the road, together with street lighting along the road. There is an existing paper billboard with almost the same dimensions

as the proposal at the site which the appellant says has been in place since at least 2009 and would remain should this appeal fail.

5. The proposed sign would be a freestanding D-Poster display which would display multiple static images on rotation. The appellant maintains that each advertisement will be displayed every 10 seconds, changing with a rapid fade, in order to avoid flashing whilst also limiting eye dwell time. During the daytime the display would dim when ambient lighting conditions also dim and at night-time luminance would be limited to 100cd/m² and would be switched off between 23:00 and 06:00 hours. It would replace the existing traditional paper billboard but would be sited in a slightly higher position. Like the existing sign, it would be angled slightly towards southbound traffic on Whalley Road and would be visible to those drivers and to drivers emerging from Pickup Street whose junction lies a short distance to the north west. The presence of a yellow box road marking indicates that this is a busy junction. There are double yellow lines around the junction and beyond that, some 30m to the north of the site on Whalley Road, there is a signalised pedestrian crossing.
6. The Council's Highways consultee says that due to the high volume of traffic and congestion at peak times, drivers emerging from Pickup Street onto Whalley Road are often merging into gaps and this leads to conflict with through traffic and cyclists.
7. At my visit, I noted that although both roads are subject to a 30mph speed limit, on Whalley Road many vehicles appeared to be travelling at speeds above that and the road was moderately busy during the early part of a mid-week afternoon. Pickup Street provides access to a convenience store and to a number of residential streets in the surrounding area and was very busy at the time of my visit. Although both roads are straight at this point, Whalley Road begins to rise to the south after the pedestrian crossing. I noticed that when turning from Pickup Street into Whalley Road, visibility to the right is limited by the brow of the hill and by vehicles turning right into Pickup Street from Whalley Road. I observed at least two vehicles cutting across the junction when turning right from Whalley Road into Pickup Street within a few minutes of one another. My observations therefore support the Council's contention that this is already a highly conflicted section of highway.
8. The appellant's evidence indicates that the proposed screen would be not be unduly prominent when approaching the pedestrian crossing in the southbound approach along Whalley Road, due to the distance, its angled siting and that it is partly obscured by the adjacent building. From what I saw at my visit, those drivers would have sufficient warning of the pedestrian crossing and would not be unduly distracted by the proposed sign.
9. However, it would be fully visible after the crossing from the point where vehicles make a right hand turn into Pickup Street. Drivers may get stuck either before or when entering the yellow box at the junction and that might be for more than ten seconds when the images may change. In those circumstances the presence of digitally changing images in such close proximity would be distracting and add to the distractions from the general activity around the junction.
10. Both parties have referred to accident data which shows that there have been five collisions recorded in the immediate vicinity of the site, including three slight and two serious injuries. Three of those involved vehicles turning at

Pickup Street whilst the other two involved child pedestrians crossing not under signal control and being struck by vehicles. Two of those reports referred to by the appellant show that the accidents involved a vehicle turning right, resulting in slight injuries. I have noted that those form a small percentage of the total volume of traffic and that contributory factors have not been provided.

11. However, those accidents took place in the context of the existing billboard which does not have same potential for distraction as the changing images of the proposal. Those would present highway users with additional information in close proximity at this busy junction and, particularly during dusk or evening hours, illumination that would distract further from their attention. The proposed advert, by reason of its siting, changing images and illumination, would introduce an additional distraction to this busy junction for drivers turning right from Whalley Road into Pickup Street and for drivers turning right from Pickup Street into Whalley Road.
12. The Appellant has referred to newly published guidelines by the Institute of Lighting Professionals (ILP) which have introduced a new set of model conditions which can be applied to advertisement consents, set out within Appendix 1 of Technical Note 5 'The Brightness of Illuminated Advertisements Digital Displays' (PLG05/23). The Appellant has put forward additional controls above the industry standard that would reduce illumination levels between dusk and dawn to just 100cdm², against an industry standard of 300cdm², and turn the advertisement off completely between 2300-0600.
13. I am not persuaded by the appellant's evidence in Appendix G which shows a comparison of a digital sign and non-illuminated poster as it shows only one point in time in a different location and the proposed sign would still be brighter than the existing non illuminated sign. Nor am I convinced that the proposed sign would in many respects be comparable to drivers glancing at the existing billboard or any other road sign because those do not display the changing images or same degree of information that would be seen here. I am not persuaded, therefore, that the suggested conditions or controls would satisfactorily mitigate the distraction that would be caused by the proposal.
14. In regard to the examples of digital signs in other areas that the appellant has referred to, I have insufficient evidence to conclude that those are directly comparable with this case. The circumstances of each site are unique and those examples do not alter my findings here.
15. I conclude, therefore, that the proposal would cause an unacceptable hazard to public safety and would be contrary to the development plan policy referred to earlier and to national policy in the Framework.

Other matters

16. The appellant has suggested that this and similar proposals ensure a number of benefits, including tidy and well-maintained sites and bio-diversity net gain where the site allows, an uplift in business rates to spend on public services, a reduction in vehicle trips and association noise, air quality and climate considerations, removal of multiple advertising sites and panels and reduction in clutter, reduction in waste involved in the poster production process, greater flexibility to enable better access to advertising displays for local businesses, platforms to broadcast emergency messaging and the opportunity to integrate additional hardware to meet the Smart City objective.

17. Whilst that might be the case, some of those are minor matters and there is little substantive evidence of the benefits that would arise here. In any case, those matters do not outweigh the significant harm that would be caused.

Conclusion

18. I conclude that the proposal would result in significant harm to public safety and there are no material considerations that would outweigh that. The appeal should be dismissed.

Sarah Colebourne

Inspector