



Appeal Decision

Site visit made on 18 September 2023 by Darren Ellis MPlan MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 April 2024

Appeal Ref: APP/Q3060/Z/23/3320722

Shell For 142 And 142a Derby Road, Nottingham NG7 1LR

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Wildstone Estates Limited against the decision of Nottingham City Council.
 - The application Ref 22/02449/ADV2, dated 30 November 2022, was refused by notice dated 28 February 2023.
 - The advertisement proposed is the erection of 1no. digital advertisement display.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are the effect of the proposal on public safety and on the visual amenity of the area which includes the significance of the Canning Circus Conservation Area (CCCA), the setting of neighbouring Conservation Areas and nearby listed buildings.

Reasons for the Recommendation

Public Safety

4. The appeal site is adjacent to the traffic-signal controlled junction between Derby Road and Ilkeston Road, which also includes pedestrian crossings. The proposed digital screen would be in an elevated position on the gable wall of 142a Derby Road and would be visible predominantly to drivers, cyclists and pedestrians approaching from the west along Derby Road. The Planning Practice Guidance (PPG) states that advertisements are intended to attract attention but such at points where drivers need to take more care are more likely to affect public safety. The cited examples include at junctions and pedestrian crossings¹.

¹ Paragraph: 067 Reference ID: 18b-067-20140306

5. During my site visit, the junction and the roads leading into it were busy, and a number of people used the pedestrian crossings. This level of activity requires the concentration of drivers, pedestrians and cyclists to be maintained. In that context, the proximity of the digital screen to the junction and pedestrian crossing, together with its prominent elevated position and frequently changing display, would divert the attention of road users even momentarily. While the junction may not currently have a poor road safety record, the digital screen would distract exactly at the point where full concentration on the road ahead is required even from drivers and cyclists that are taking reasonable care of their own and others' safety.
6. The appellant has suggested a range of conditions to control how often the images change and to ensure that there are no moving images or effects. However, given the position of the screen close to the road and in relation to the junction and pedestrian crossing, these conditions would not sufficiently mitigate the distraction to road users.
7. All of the cited advertisements apart from the Rochdale example involved the replacement of one or two existing displays. In those cases, an advertisement was already an established part of a road user's field of view and in some cases resulted in a reduction in the number of adverts. Neither scenario is applicable to the appeal proposal. The Rochdale example appears to be situated alongside a road with a pedestrian crossing and a non-signal-controlled junction where another road joins. It's context therefore differs from the appeal site. For these reasons, the examples are not sufficiently comparable to the scheme before me and do not justify the reduction in highway safety identified above.
8. Owing to its position in relation to vehicles approaching the junction from Ilkeston Road or from the east on Derby Road, the digital screen would not be directly in a driver's view and as such it would not cause any significant distraction from these roads. Nevertheless, for the reasons given above the proposed digital screen would cause harm to public safety.
9. The Council has drawn my attention to Policy DE5 of the Nottingham City Land and Planning Policies Local Plan Part 2 2020 (LAPP), which requires the impact on public safety of an advertisement proposal to be considered. The supporting text states that advertisements should not be hazardous to public safety. As I have concluded that the proposed advertisement would harm public safety, it therefore would conflict with this policy. I have taken these policies into account insofar as they are material to the main issue.

Visual Amenity

10. The area around the appeal site is a mix of commercial and residential uses and includes a range of fascia and projecting signs, some of which are illuminated. They are however, in the main, more modest in scale and thus have a more recessive presence in the public realm. This contributes positively to the visual amenity of the area.
11. The proposal would introduce a large, permanent, illuminated feature that would draw the eye and appear conspicuous in the context of the surrounding area where advertising displays are generally more discreet. Although the level of illumination could be controlled, the illuminated nature of the advertisement would only serve to highlight its unsympathetic scale and height, the visual impact of which would be exacerbated by its prominent location. The

streetscape is varied and includes functional and modern buildings. Nonetheless, the presence of such a large and prominent digitally illuminated display would not be sympathetic.

12. The historic buildings which remain from New Radford, which are mixed amongst more modern buildings, contribute positively to the significance of the CCCA through their architectural and traditional qualities. The Park Conservation Area (PCA) and the grade II listed Regency House at 2A, 2B and 2C Ropewalk are on the opposite side of Derby Road from the appeal site.
13. The proposed digital advertisement would be prominently positioned at the first and second floor level of No 142a. Although the proposed screen would not face towards Regency House, it would be seen at the same time by anyone approaching the site from the north. As a result of its height, modern appearance and digital illumination, and given the lack of other digital screens in the vicinity of the appeal site, the proposed advertisement would jar against the traditional appearance of the listed building and the prevailing pattern of shop frontages with more modest and related signage at ground floor level. The proposed screen would also detract from the quality of the traditional buildings in the CCCA.
14. The Gamble Street/Alfreton Road Conservation Area (GSARCA) lies to the north of the appeal site, and the grade II listed building at 154-162 Derby Road is situated to the west. The digital screen would be visible when looking towards the GSARCA and the listed building. However, some of the buildings at the edge of the GSARCA are quite modern, and the digital screen would be a moderate distance from the both the GSARCA and the listed building. As such, it would not have a significant impact on the GSARCA or 154-162 Derby Road.
15. Nevertheless, the overtly modern appearance of the digital screen would not preserve the setting of the PCA or the listed Regency House, nor would it reflect the established character of the wider area. Whilst levels of illumination and the mechanism to control images could be controlled by condition this would not significantly alter the fundamental nature of the digital display which would remain at odds with the prevailing character of the area. The proposal would furthermore fail to preserve or enhance the character or appearance of the CCCA.
16. With this and the above in mind, the appeal scheme would be unacceptable in visual amenity terms. The Council has drawn my attention to LAPP Policy DE5 which require advertisements to be of high-quality design, and to LAPP Policy HE1 and Policy 11 of the Greater Nottingham Aligned Core Strategies Part 1 Local Plan 2014 which require development proposals to conserve or enhance the historic environment. As I have concluded that the proposed advertisement would harm visual amenity, the character and appearance of the CCCA, and the setting of Regency House and the PCA, it would not accord with these policies. I have taken them into account insofar as they are material to the main issue.

Other Matters

17. The proposal may result in a number of benefits, including reductions in energy consumption and pollution, fewer visits to the site for maintenance and the use of sustainable energy. However, PPG states that the powers to control advertisements under the Regulations may be exercised only in the interests of

amenity and public safety. I am not therefore led to changing my conclusions or indeed finding that the harms I have found would, or could, be outweighed.

Conclusion and Recommendation

18. For the reasons given above, the scheme would cause harm to the visual amenity of the area and to public safety, contrary to the Regulations. I therefore recommend that the appeal is dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and my representative's report and on that basis I dismiss the appeal.

John Morrison

INSPECTOR