



Appeal Decision

Site visit made on 15 May 2024

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2024

Appeal Ref: APP/C4615/Z/23/3333932

Vintage Gamer, 87 Windmill Hill, Halesowen, West Midlands B63 2BY

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr John O'Hara of Replyshort Ltd against the decision of Dudley Metropolitan Borough Council.
 - The application Ref is P23/0725.
 - The advertisement proposed is described as a 'proposed digital screen'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. My attention has been drawn by the Council to Policies S8, S12 and D12 of the Dudley Borough Development Strategy 2017 (Development Strategy) together with the Shopfront & Advertisement Supplementary Planning Document 2017 (SPD). Under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations) the control of advertisements may only be exercised in the interests of amenity and public safety, taking into account (a) the provisions of the development plan, so far as they are material; and (b) any other relevant factors. Therefore, while the development plan policies are not in themselves decisive, I have had regard to the identified policies in so far as they are a material consideration relevant to the matters before me.
3. The Council raise no objection to the proposal in respect of matters of public safety, and based on my own observations, I have no reason to conclude otherwise.

Main Issues

4. The main issues in this appeal are the effect of the proposed advertisement on the amenity of the area, with particular regard to:
 - the character and appearance; and,
 - the living conditions of nearby occupiers in relation to light pollution and disturbance.

Reasons

Character and appearance

5. The appeal site is located within the designated Town Centre of Colley Gate and the Cradley Area of Special Townscape Value and Area of High Historic Value. It relates to an area of wall which occupies a prominent position adjacent to Windmill Hill – a busy thoroughfare through the area. The immediate vicinity is characterised by a mix of building types and uses including commercial premises located at street level with residential accommodation occupying the upper floors and linear housing fronting the road. The commercial premises on either side of the road display various fascia's and projecting signs of modest proportions which appeared in the main, to be non-illuminated.
6. The appellant submits that the proposed advertisement would be smaller than standard industry panels and has been sited to maintain visual balance. Nevertheless, it would extend nearly the full width and height of the wall and would occupy a prominent position, forward of the appeal building. Owing to the prominence of the site, combined with the high-level position and overall dimensions of the digital screen, it would be seen by passers-by as an unduly dominant and incongruous form of advertisement, particularly on the southeast approach. This would be harmful to the visual amenity of the area.
7. Moreover, notwithstanding the variety of signage in the surrounding area, the proposal would be disproportionately large in comparison. Further, there are no illuminated advertisements in the immediate vicinity that feature digital imagery. Consequently, the appeal proposal would introduce a form of advertisement that is not prevalent in the immediate locality. This would add to its prominence and discordancy. Whilst I do not disagree that the hours of illumination could be controlled by condition, this would not be sufficient to mitigate the harm resulting from the overbearing scale and position of the proposed advertisement.
8. Accordingly, I find that the proposed advertisement would have an adverse effect on the amenity of the area with particular regard to character and appearance. Amongst other aspects, Policies S8, S12 and D12 of the Development Strategy together with the SPD seek to ensure that the scale of advertisements are in keeping with the character of the area or nearby buildings and enhance the characteristics and the distinctiveness of the area in which they are to be sited. For the reasons outlined, the proposal would not be consistent with the aforementioned policies or the Framework in so far as they relate to the matter of visual amenity.

Living conditions

9. The appeal site is located within a suburban area, and this section of road is lit by streetlights and buildings. Passing vehicles, albeit fleeting and less frequent would provide a degree of illumination during the hours of darkness. There are residential properties on the opposite side of the road, and it is undisputed that there would be habitable room windows facing the proposed advertisement, albeit mainly at an oblique angle.
10. Without some additional controls in place there would be some disturbance to residents during hours of darkness owing to the close physical relationship and size of the screen and its illumination. However, I am satisfied that it would be

possible to ensure that the degree of brightness was controlled to such an extent that it did not cause material harm to residents. In this regard, I note the appellant's suggestion that a condition requiring the advertisement to be switched off between the hours of 10pm and 7am could be imposed. I find that this would be necessary as illuminated, digital images, even with light levels at the lowest figure, would be likely to be noticeable to residents and hence lead to disturbance at a time when they would expect a degree of tranquillity.

11. Subject to the imposition of a condition, I find that the proposed advertisement would not have an adverse effect on the amenity of the area with particular regard to the living conditions of nearby occupiers in relation to light pollution and disturbance. It would be consistent with Policy D12 of the Development Strategy where it seeks to ensure that advertisements safeguard amenity and are appropriately and sensitively illuminated. It would also be consistent with the provisions of the Framework where it seeks to provide a high standard of amenity for existing occupiers.

Other Matters

12. Mention is made by the appellant to several amendments which could be made to address the Council's concerns. However, in determining the appeal I have limited by considerations to the submitted plans which were those considered by the Council.

Conclusion

13. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

H Wilkinson

INSPECTOR