
Appeal Decision

Site visit made on 30 July 2024

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th August 2024

Appeal Ref. APP/Z4718/Z/24/3344898

Land at Webster Hill, Dewsbury WF12 9QA

- 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 Alight Media against the decision of Kirklees Metropolitan Council.
 - The application ref. is 2024/64/90302/E.
 - The advertisements proposed are “New pair of LED illuminated 48-sheet advertisement displays”.
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Decision

1. The appeal is allowed and express consent is granted for the display of new pair of LED illuminated 48-sheet advertisement displays on land at Webster Hill, Dewsbury WF12 9QA in accordance with the terms of the application, ref. 2024/64/90302/E, dated 1 February 2024. The consent is for 5 years from the date of this decision and is subject to the 5 standard conditions set out in Schedule 2 of the 2007 Regulations and the following additional conditions:
 - 1) The luminance of the displays shall not exceed 300 candelas per square metre between dusk and dawn and shall comply with the latest recommendations of the Institution of Lighting Professionals.
 - 2) The luminance level of the displays shall be controlled by ambient environmental control which would automatically adjust the brightness level of the screens to track the light level changes in the environment throughout the day to ensure that the perceived brightness of the displays is maintained at a set level.
 - 3) Each of the displays shall contain at all times a feature that will turn off the screen (showing a black/blank screen) in the event of any malfunction or error in the system.
 - 4) The displays shall be of static images only and no individual advertisement display shall contain moving images, animation, intermittent or full motion video images, audio, directional symbols or any images that resemble road signs or traffic signals.
 - 5) No individual advertisement shall be displayed for a duration of less than 10 seconds. There shall be a smooth uninterrupted transition from one complete screen to another, with all such transitions being instantaneous and without any visual effects between displays such as fading, swiping, scrolling or other animated transition methods.

Preliminary matter

2. Under the 2007 Regulations powers to control advertisements are to be exercised in the interests of amenity and public safety taking into account the provisions of the development plan, in this case the Kirklees Local Plan - Strategy and Policies 2019 (KLP), so far as they are material and any other relevant factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) reiterate this approach, with the Framework adding that cumulative impacts can be taken into account.

Main issue

3. The Council raised no objections with regard to amenity. Based on my observations on site and the evidence before me, I see no reason to disagree. The main issue is therefore the effect of the proposed advertisement displays upon public safety.

Reasons

4. The proposed displays would stand in a V-shaped formation at the eastern end of the premises occupied by Kwik Fit which is located on the southern side of a dual carriageway leg of Webster Hill, part of a strategic east-west A road leading around the southern side of Dewsbury town centre. There is a 30mph speed limit.
5. The general characteristics of the locality are defined by the edge of town centre location, the busy adjacent thoroughfare and various road junctions with traffic lights, the mix of commercial uses in this highly urbanised neighbourhood and, of course, by the large Kwik Fit building and its associated car park.
6. The displays would face towards oncoming traffic travelling each way along Webster Hill and stand in between 2 junctions controlled by traffic lights. This section of Webster Hill is likely to be busy with traffic throughout the day and into the evening.
7. The PPG says all advertisements are intended to attract attention but those proposed at points where drivers need to take more care are more likely to affect public safety, for example, at junctions, pedestrian crossings or other places where local conditions present traffic hazards. The main types of advertisements which may cause danger to road users are said to include: those which, because of their size or siting, would obstruct or confuse a road-user's view, or reduce the clarity or effectiveness of a traffic sign or signal, or would be likely to distract road users because of their unusual nature; and externally or internally illuminated signs (incorporating flashing or static lights) including those utilising LED technology.
8. The Council's Highways Development Management (HDM) objected to the proposal. The HDM said that the proposed plans do not show the locations of the primary and secondary signals at either of the 2 nearby signalised junctions and as a result it could not be determined if the displays would hinder the ready interpretation of the traffic signals. In general terms, it is possible in certain scenarios for traffic signals to merge with and become difficult to distinguish from the illuminated digital images of advertisement displays behind, creating confusion for motorists. Failure to respond adequately to traffic signals would carry a significant risk to highway and public safety.
9. Even though no information has been put before me of recorded traffic accident incidents involving vehicles travelling on the approaches to the application site, the local highway conditions, the PPG and the response from the HDM point to the need for careful scrutiny.

10. The displays would be most visible to drivers approaching the 2 sets of traffic lights eastbound on Webster Hill after coming under a bridge and westbound on Aldams Road and Webster Hill. On these approaches the views across the junctions are relatively free of visual obstructions. I did not find the traffic movements required of drivers moving towards the traffic lights to be confusing or difficult or to require an excessive degree of concentration. Such movements are well controlled by the traffic lights. Moreover, most of the vehicle drivers moving towards the displays would be likely to have been aware of their existence for some time given the length of the approaches, the relatively slow traffic speeds and the position of the signs in a driver's forward view. Drivers would have plenty of time to assimilate the advertisements as well as the traffic signs, signals and their ongoing routes and to distinguish the traffic light heads from the advertisements.
11. The plans show that the underside of the advertisement displays would be 4.5m above ground level. They would reach a total height of 7.7m. There is a distance of about 2.5m between the ground and the bottom of the traffic signal heads hereabouts. The signal head assessments, superimposing the outline of the signs upon images of the street, which were submitted with the appeal, confirm my own observations that the displays would not seriously conflict with the traffic light systems on account of their greater height and/or their offset positions in relation to the traffic lights as perceived in the views available to some approaching drivers.
12. I also took the opportunity to emerge southbound from Old Westgate and Dewsbury Ring Road and northbound from Mill Street West and the Kwik Fit site itself. All of these movements are controlled by traffic lights. Given the orientation and/or location of these junctions and their traffic lights in relation to the proposed displays, I am satisfied that these emerging drivers would have only a limited sight of the proposed signs. They would have time to look out for pedestrians and begin to organize their turning manoeuvres at the traffic lights before the signage is fully encountered, thus diminishing the potential for these drivers to be distracted by the proposal.
13. This type of signage is no longer viewed as being wholly unusual in nature. The displays would not come as a surprise to drivers passing through this urban and commercial locality. As with all these types of display, there might be a general concern that if not properly controlled, they could amount to a distraction because of their lighting levels and the way in which the images are displayed. However, the surroundings are well-lit by high level street lights so the level of illumination from the panels would not appear excessive. In-built mechanisms would control the operation and brightness of the digital images and suitable planning conditions can be imposed to require such mechanisms and to further protect public safety. As the appellant says, such operating conditions, which I cover more fully in paragraph 15 below, are now commonplace for this type of display.
14. Subject to those operating conditions, I find that the proposed advertisement displays would not cause a sufficient level of distraction to road users as to result in an unacceptable impact upon highway safety. The scheme would not therefore harm public safety. As the advertisement displays would not have an unacceptable impact upon highway safety or prejudice the safe and efficient flow of traffic on the local highway network, there would be respect for KLP Policy LP21 and the Framework.

Conditions

15. The Council suggested in the questionnaire that no conditions other than the 5 standard conditions should be imposed in the event of the appeal succeeding. On the

other hand, the appellant, in the grounds of appeal, suggested 5 additional conditions to control illumination levels between dusk and dawn and advert duration and transition, to secure the provision of in-built ambient light sensors and a mechanism to turn off the displays in the event of a malfunction and to prevent moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals. I consider that such matters should be covered by additional conditions because they are necessarily in the interests of amenity and public safety.

Conclusion

16. Having regard to all other matters raised in the written material before me, I have reached the conclusion that the appeal should be allowed.

Andrew Dale

INSPECTOR