



Appeal Decision

Site visit made on 25 October 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2024

Appeal Ref: APP/W0734/Z/24/3350514

96 North Ormesby Road, Middlesbrough TS4 2AG

- 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 Wildstone Group Limited against the decision of Middlesbrough Council.
 - The application Ref is 24/0158/ADV.
 - The advertisement proposed is the conversion of 96-sheet billboard advertising display to 48-sheet D-Poster advertising display.
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Decision

1. The appeal is dismissed.

Main Issue

2. The Council has identified that the effect of the proposed advertisement on amenity would be acceptable, and I have no reason to disagree. Therefore, the main issue is the effect of the proposed advertisement on public safety in relation to road users.

Reasons

3. The appeal site is located adjacent to the A66. In the vicinity of the appeal site, the A66 is a dual carriageway which skirts closely around Middlesbrough's town centre, and it is subject to a 50mph speed limit. Next to the appeal site is the northbound on-slip for vehicles joining the A66 from the A172. Farther away to the north-west, but still in quite close proximity, is the A66/Marton Road junction which is served by slip roads on and off the A66. Consequently, the appeal site is located within an area where vehicles are both bypassing Middlesbrough on the A66 and which are entering and exiting the A66 via some of Middlesbrough's main thoroughfares.
4. This character and road network means that, in the vicinity of the appeal site, the A66 is heavily trafficked, is the subject of quite high vehicle speeds and vehicle lane changes will be frequent. Therefore, I find that the demands upon a driver's concentration in this area are high.
5. Specifically, the appeal site's position in relation to the aforementioned northbound on-slip and the exit slip road for the A66/Marton Road junction means that the proposed advertisement would be located at a juncture where some motorists would be joining the A66, others would shortly be intending to leave it and others would be continuing their journey along it. Closely beside the appeal site, some drivers intending to exit the A66 at the A66/Marton Road junction may be preparing to change lanes and may well have their indicator

light on to do so. In turn, and aware of this, drivers entering the A66 via the northbound on-slip may be preparing to accommodate these lane changers whilst, at the same time, themselves, be preparing to change into the middle lane should they be intending on continuing their journey along the A66 and not exiting for the A66/Marton Road junction.

6. I acknowledge that the appeal site is close to the nose of the northbound on-slip and that advanced signage beside this slip road indicates to drivers the upcoming lane allocations and that the slip forms a lane gain on the A66. Even so, and for the reasons I have set out above, adjacent to the appeal site, drivers will have various manoeuvre intentions, and will be undertaking those manoeuvres or preparing to do so. Driver concentration is therefore important in this location.
7. I acknowledge that the proposed advertisement has been designed to accord with industry best practice and it would utilise technology in order to control the likes of its luminance level, the transition of images and so as to prohibit moving images. Conditions could be imposed to exert control in these respects. Despite this, given the proposed advertisement's size and digital illuminated nature, it would nevertheless form a strident feature. The advertisement content would also switch and, despite the submissions made to me on how quickly and smoothly this would be undertaken, a viewer would be able to notice image and colour changes. Furthermore, even if the advertisement was not switched on between the hours of 23:00 and 06:00, for the majority of the day, including the periods when there would be the most traffic, the proposed advertisement would be operational.
8. Given this, and even though a passing driver may not experience more than a single image change, coupled with the strident digital display, there is nevertheless the potential for drivers to focus upon the proposed advert, or be distracted by it, for a critical period. This would occur at a point when, for the reasons I have explained above, the demands upon driver concentration levels are high. The proposed advertisement could result in, or contribute to, a lapse in driver concentration or a driver error. This would pose a threat to their own safety and that of other road users.
9. In coming to these views, I acknowledge that there are subsisting factors which assist with road safety in the vicinity of the appeal site. This includes that the A66 is well lit, is relatively straight and level, and has good forward visibility. Despite this, and for the reasons given above, the combination of the proposed advertisement's design and visual effects, together with its particular siting in a location where drivers must maintain a high degree of concentration and decisiveness, leads me to the conclusion that the proposal's effects upon public safety would be unacceptable.
10. Recent road safety records may show that there have been few accidents in the area. However, this provides evidence in respect of the road network conditions without the proposal. Upon completion of the proposal, a further and different factor influencing road conditions and road users would be introduced. As such, the road safety records relating to the subsisting conditions do not demonstrate to me that the proposal would be safe.
11. As the existing larger and similarly positioned advertisement is a traditional paper and paste display, its visual effects differ from those that would arise from the proposal's digital illuminated design. The existing advert does not

share the same stridency or the potential to draw a driver's attention. Consequently, the presence of the existing advertisement is of limited weight in my determination.

12. The appellant refers to the widespread use of digital advertisements across the country. Examples of consented and erected digital advertisements elsewhere in Middlesbrough, and from further afield in Glasgow, Portsmouth, Bristol and Manchester, have also been submitted to me. However, the concerns I have with the effects of the appeal proposal stem from the particular circumstances which apply to it. It is the particular combination of the advertisement, the road layout and driver behaviours applicable which has led me to my findings. These factors will not all be directly comparable with the cited examples and, consequently, the effects of each would differ. As a result, the cited advertisements are of limited weight in my decision.
13. Unlike the scheme the subject of the previous appeal decision¹, only a single digital display is now proposed, and it would be sited in a revised position. I have considered the scheme the subject of my decision on its own merits but, for the reasons I have set out, nevertheless conclude that it would result in harmful effects upon public safety.
14. Policy DC1 of the Middlesbrough Local Development Framework Core Strategy states, amongst other matters, that proposals should not impact on highway safety. Given this content, the policy is material in this case, and I have taken it into account. As I have concluded that the proposed advertisement would harm public safety, the proposal conflicts with this policy. Furthermore, as the proposed advertisement's design would be unacceptable on these public safety grounds, it also conflicts with the advice of paragraph 141 of the National Planning Policy Framework.

Other Matters

15. The consideration of advertisements should be subject to control only in the interests of amenity and public safety. Therefore, that the proposed advertisement would be an energy efficient installation is not a matter which has a bearing upon my decision.

Conclusion

16. For the reasons set out above, I conclude that the proposed advertisement would unacceptably harm public safety in relation to road users. Therefore, the appeal should be dismissed.

H Jones

INSPECTOR

¹ Appeal Decision reference APP/W0734/Z/21/3272495