



Appeal Decision

Site visit made on 11 December 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2025

Appeal Ref: APP/L5240/Z/24/3350478

73 Whitehorse Road, Croydon CR0 2JG

- 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 Estates Limited against the decision of the Council of the London Borough of Croydon.
 - The application Ref is 24/01621/ADV.
 - The advertisement proposed is upgrade of existing 48 sheet advert to support digital poster.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was refused on the basis that insufficient evidence and information was provided to demonstrate the appeal proposal would not unsafely distract motorists. As part of this appeal, the appellant has submitted a Highways Technical Note (HTN), aimed at providing such evidence and information.
3. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme. What is considered by the Inspector at appeal should be essentially the same as was considered by the local planning authority and by interested parties at the application stage. In considering whether to accept amendments to a proposal during the appeal process, it must be considered whether the proposed change involves a "substantial difference" or a "fundamental change" to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
4. The HTN provides a significantly greater level of detail than the original submission, including specific conclusions drawn from a series of case studies. The Council did not have a chance to consider the HTN before making its decision, and it has not been consulted upon. I cannot know what decision the Council would have made if the HTN had been before it, or what third party responses may have resulted. As such, I find that neither part of the necessary test has been satisfied and so I will not accept the HTN as part of the appeal. Instead, I will determine the appeal having regard to the same details on which the Council made its decision.

Main Issue

5. The Council has raised no objection in respect of amenity, and I observed nothing which would lead me to dispute this conclusion, subject to the appropriate controls

on luminance and display. Accordingly, the main issue is the effect of the proposed advertisement on public safety.

Reasons

6. The appeal site (the site) is an end-terrace building at the corner of Union Road and Whitehorse Lane (the A212). The flank wall includes a non-illuminated poster display at 1st and 2nd floor level, chiefly visible to southbound users of the A212. The appeal proposal comprises the replacement of the existing display with a digital one of broadly the same dimensions, in much the same location (the digital display).
7. National Planning Practice Guidance states that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. Examples provided thereafter include at junctions and pedestrian crossings, or other places where local conditions present traffic hazards. Advertisements likely to distract road-users because of their unusual nature, or which are subject to frequent changes of display, are cited as types which may cause danger.
8. The appellant relies, in the main, on their description of the area around the appeal site as unchallenging for drivers, on the relative absence of accidents during the life of the existing poster display, and on the lack of evidence linking digital displays to accidents generally.
9. The A212 leads to the large urban centre of Croydon through its densely populated northern suburbs. I have no evidence it is subject to speed restrictions beyond national speed limits, or that it is particularly slow-moving. On the eastern side of the A212 is a large residential estate (the estate). On the western side are a series of parades forming a long line of shopfronts (the shops). Given all the above, it is highly likely the A212 is a busy vehicular thoroughfare, that also sees significant numbers of pedestrian movements across it.
10. There is a pedestrian crossing over the A212 just north of the site, immediately alongside the junction with Union Road (the junction). The nearest other crossings are located beyond the outermost shops. Some pedestrians walking between the estate and the shops would travel further to use one of the crossings than if they crossed the A212 directly. Overall, the pedestrian crossing just north of the site (the pedestrian crossing) is likely to be used very often, and there is also a significant prospect of pedestrians walking across the A212 directly. The conditions around the site require a reasonably high degree of driver care, therefore.
11. The shops include an eclectic range of fascia, projecting, shopfront, and kerbside advertisements. In the main, however, these are limited to ground and lower first floor levels, where drivers in urban areas are accustomed to them. The eastern side of the A212 includes a range of small road signs, as well as advertisements on a public phone box and a bus stop. These are also all below adjacent first floor levels.
12. The existing poster display is visible to southbound drivers over a reasonably long stretch of the A212, from just after the junction with Limes Road. I have no reason to doubt the appellants' assertion that it has been in place for a long time, or that there have been no serious accidents recorded near the appeal site in the last five

years. At the same time, the evidence does not demonstrate that the poster display was approved by the Council following an assessment of its effects on highway safety. It is far larger than most nearby advertisements, and at a far greater height. As such, it is highly prominent on the southbound approach, increasingly so as one draws near to the pedestrian crossing and the junction. The same would be true of the digital display.

13. The prominence of the poster display is mitigated slightly by it being on the northern elevation of the site where it will be shaded in sunny weather, and by its static nature. Whilst the level of luminance and the proposed speed and rate of change between advertisements on the digital display could be controlled, illumination and movement would nevertheless make the digital display more eye-catching than the poster display. As such, evidence that the poster display has not resulted in accidents is not sufficient to demonstrate the safety of the digital display.
14. The appellant contends that digital advertisements are increasingly common and there is no evidence they lead to accidents. Even if this is so, in most cases those digital advertisements would have received consent only after an assessment of their effect on highway safety, which the Council have been unable to undertake in this instance. Any increase in the number of digital advertisements is not, within itself, evidence that the digital display proposed in this appeal would be safe.
15. Whilst a drive to reduce and replace static poster displays with digital ones may reduce visual clutter generally, the particular proposal before me would not provide any benefits in that regard. I have no reason to doubt the proposal would reduce vehicle trips required to physically alter poster displays, or that it may reduce some forms of waste, create greater revenues, and allow intermittent public announcements and displays of art, but none of these benefits would alter the implications of the appeal proposal for highway safety.
16. I conclude that insufficient information has been supplied to show the effect of the proposed advertisement on public safety would be acceptable. In accordance with the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, the provisions of the development plan, insofar as they are relevant, have been considered. The proposed advertisement would not evidently meet with the aims of Policy T4 of the London Plan (2021) and Policy DM29 of the Croydon Local Plan (2018), where they seek to ensure highway safety.

Conclusion

17. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

A Knight

INSPECTOR