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## Appeal Decision

Site visit made on 10 February 2025

**by Andreea Spataru BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 February 2025

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**Appeal Ref: APP/A1015/Z/24/3355689**

**317-319 Sheffield Road, Whittington Moor, Derbyshire S41 8LQ**

- 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 Paul Hardy (Vivid Outdoor Media Solutions (A) Limited) against the decision of Chesterfield Borough Council.
  - The application Ref is CHE/24/00512/ADV.
  - The advertisement proposed is the "installation of LED illuminated 48-sheet advertisement on the gable wall of the Palm Hair Studio, 317 to 319 Sheffield Road, Whittington Moor, Chesterfield, S41 8LQ".
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Since the application was determined, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework in reaching my decision.
3. The Council has drawn my attention to Policy CLP20 of the Chesterfield Borough Local Plan 2020 (LP) and I have taken it into account as a material consideration where relevant. However, powers under the Regulations<sup>1</sup> to control advertisements may be exercised only in the interest of amenity and public safety, taking account of any material factors. The Framework and the Planning Practice Guidance reiterate this approach. Therefore, in my consideration of this appeal, the Council's policy has not, by itself, been decisive.
4. At my site visit I have observed that a sign, different to the proposed advertisement, is in place on the gable wall at the appeal site. It occupies part of the space proposed for the appeal advertisement. Nevertheless, I have considered the appeal advertisement based on the submitted plans.

### Main Issue

5. The Council does not object to the proposed advertisement on public safety grounds. Given the evidence before me, I see no reason to disagree. Therefore, the main issue is the effect of the proposed advertisement on amenity.

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<sup>1</sup> The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

## Reasons

6. The appeal site is the gable wall of a two-storey commercial property, located on the eastern side of Sheffield Road, at the junction with Pottery Lane West. The Council identifies the area as being primarily commercial, but there are several residential properties immediately to the east of the appeal site. There is a multitude of advertisements in the section of the road to which the appeal site relates, particularly from the junction with Pottery Lane West towards the north on Sheffield Road. The advertisements displayed have various sizes and forms. Most of them relate directly to the respective business operation concerned.
7. The context of the appeal site is determined by the surroundings in which the proposed advertisement would be seen. In this instance, the advertisement would be mostly visible when travelling north on Sheffield Road, in the context of the existing advertisements and the two-storey buildings that serve as background. Notwithstanding the presence of the Football Stadium and the Glass Yard development within proximity of the appeal site, the smaller scale two-storey buildings are those that dictate the immediate context of the appeal site.
8. The proposed advertisement would be large in size, with the LED screen itself measuring 6 metres in width and 3 metres in height, and would have an elevated position, approximately 2 metres from the ground. Thus, it would occupy a considerable proportion of the gable wall and would appear particularly dominant when viewed against the scale of the nearby two-storey buildings. Its size would make it noticeably larger than most of the other commercial advertising in the immediate area and significantly more prominent due to the method of illumination and the nature of multiple static advertisements on rotation. Accordingly, despite the commercial nature of the appeal site, due to a combination of its location, size and illumination the advertisement would appear as a highly prominent feature which would have a visually intrusive and cluttering effect.
9. There are other sources of illumination, particularly from the street lighting, near the appeal site. Nevertheless, due to the prominent location of the advertisement, the illuminated changing images would stand out, during both the day and at night, further accentuating its visual prominence and thus its harmful effect on the amenity of the area. This would be irrespective of the appeal site's location outside a Conservation Area and away from Listed Buildings.
10. There is an advertisement of similar size and positioning on the gable wall of a two-storey building on the opposite side of Sheffield Road. However, the proposed advertisement is not directly comparable with it due to its method of illumination and the changing displays. Whilst these types of advertisements may be present on many gable walls across the country, that of itself, does not provide adequate justification in all circumstances. I have considered the proposed advertisement on its own merits and site-specific circumstances.
11. The appellant has drawn my attention to two advertisements<sup>2</sup> allowed at appeal, near to the appeal site. Notwithstanding the proximity to one of the allowed advertisements<sup>3</sup>, which at the time of my site visit was not in place, the proposed advertisement is not directly comparable with it because their circumstances differ. The Inspector in that case stated that the advertisement, because of its siting,

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<sup>2</sup> Appeal ref: APP/A1015/Z/22/3298938 & APP/A1015/Z/23/3322766

<sup>3</sup> Appeal ref: APP/A1015/Z/22/3298938

would relate to the large scale of the Stadium building and the Glass Yard development, and would have trees as background which would soften its impact. The context of the second advertisement<sup>4</sup> is also different from the one before me. The Inspector described the location of the advertisement as being 'in a prominent position on the frontage of Chesterfield Trade Centre'. Therefore, whilst I have taken account of these decisions, they do not lead me to a different view in relation to the effect on amenity of the proposed advertisement before me.

12. I have considered the appellant's suggested conditions, including the proposed limit for the luminance level and a minimum time for an image to be displayed. However, these would not be sufficient to mitigate the overall harm that I have identified above.
13. Consequently, I conclude that the proposed advertisement would cause unacceptable harm to the amenity of the area due to a combination of its size, positioning, illumination and display of changing images. In this regard, the advertisement would conflict with the aims of Paragraph 141 of the Framework. Although not determinative, there would also be conflict with the amenity aims of Policy CLP20 of the LP.

### **Conclusion**

14. For the reasons given above, I conclude that the appeal should be dismissed.

*Andreea Spataru*

INSPECTOR

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<sup>4</sup> Appeal ref: APP/A1015/Z/23/3322766