
Appeal Decision

Site visit made on 1 April 2025

by **E Heron MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025

Appeal Ref: APP/C4615/Z/24/3357620

Advertising Hoardings at Corner of Castle Hill, Tipton Road, Dudley DY1 4TA

- 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 Ltd against the decision of Dudley Metropolitan Borough Council.
 - The application Ref is P24/1090.
 - The advertisement proposed is replacement of paper and paste display with 1 no. internally illuminated digital advertisement.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed advertisement on:
 - The amenity of the area, including the settings of Dudley Castle (Scheduled Ancient Monument and Grade I listed building), Dudley Town Centre Conservation Area, and Castle Hill Conservation Area; and
 - public safety with particular regard to highway safety.

Reasons

3. The appeal site is at the back of the pavement adjacent to Castle Gate Island roundabout (the Island), in close proximity to a traffic signal. This is a heavily trafficked location where four strategic roads converge. The Island is a large planned focal point, featuring grassed mounds and sculptures. On my site visit, I could see that it is an important commercial gateway location to multiple attractions and services including Dudley town centre, Dudley Zoo and Castle, the Black Country Living Museum, as well as hotels and restaurants, with further regeneration ongoing including railway work.

Amenity

4. The existing paper and paste hoarding is the only advertising structure at the Island. Other advertisements in this context are limited to low-key lettering on buildings. Digital display adverts do not feature, and night-time illumination comes from numerous lamp posts and traffic lights around the roundabout.
5. The appeal site is viewed from multiple vantage points around the Island, and has an attractive and striking backdrop, comprising woodland on the lower slopes of

Castle Hill, topped with the visible ruins of Dudley Castle. Modern commercial and tourism buildings also sit within this backdrop but a belt of trees immediately behind the site soften their visual impact and provide a verdant continuity with Castle Hill beyond. This backdrop forms part of the designations, Castle Hill Conservation Area, the grade I listed building and Scheduled Ancient Monument. Dudley Castle and Castle Hill are historically and culturally significant as a Norman castle strategically sited in an elevated position above the town, with its subsequent alterations and ruination providing a direct link to the town's history. From some vantage points there are also glimpses of The Station Hotel. This is a gateway location into the Dudley Town Centre Conservation Area and is significant as it provides an impressive visual clue towards the past transport development of the town centre.

6. The existing advertising hoarding is an unassuming static feature within this wider context. I viewed the site at dusk as well as in day light. At dusk before additional roundabout lighting was switched on, the castle ruins were silhouetted against the sky.
7. The proposed advertisement, even with adaptive luminance and light spread, and other industry standard controls, would have an eye-catching, frequently changing, illuminated display. This would be a highly distracting feature in the foreground of The Station Hotel, Dudley Castle, and the Castle Hill woodland, particularly on overcast days, and at dusk, prior to other lighting being switched on. At night when the road network around the Island is illuminated and the view of Castle Hill becomes recessive, the visual impact of the changing display would be marginally less. However, it would still be an alien feature as there are no other similar displays in this location. For these reasons, the proposal would harm the visual amenity of the area, particularly the setting of the conservation areas, grade I listed building, and Scheduled Ancient Monument.
8. The appellant has referenced other digital advertisements including one on the A461 (Council ref. DY/53/671). The evidence shows this to be located on a straight road with a modern building in the background, and no historic context. As such, this is not a directly comparable location. In respect of the appellant's additional examples, I will refer to these by way of the URN numbers. 17209, 19238, 19426 are all digital displays within an overtly commercial or industrial estate context. 19997, 19035, 16947, 16514, 16626 and 16627 are examples of display boards on or adjacent to older buildings. There is little evidence presented to me to demonstrate that these are comparable to the appeal site's historical and attractive verdant backdrop. Furthermore, some examples, (including 19019), appear overly large for their site or stand out due to their luminance and as such they reinforce my concerns rather than providing a sound justification for a similar advert.
9. As I have found that the existing hoarding is unassuming, its presence and the fact it may benefit from deemed consent and may be replaced, carries limited weight in my consideration of the amenity impact of the proposal. Similarly, I attach limited weight to the photographic evidence showing multiple adverts at the site in 2009, as they are no longer present.
10. I have taken account of the provisions of the development plan so far as they are material in respect of visual amenity. In this case, Policies D12, S9 and S15 of The Dudley Borough Development Strategy (2017) (the Development Strategy), and Policy 22 and 23 of The Dudley Area Action Plan (2017), seek to resist proposals

that are detrimental to the visual amenity of an area, prejudice views into conservation areas and the setting of Scheduled Ancient Monuments amongst other things. The proposal would also fail to satisfy the requirements of paragraph 141 of the National Planning Policy Framework (the Framework), which seeks control of advertisements to ensure the quality and character of places does not suffer.

Public Safety

11. The Island is a large and busy traffic-controlled roundabout, connected to four A class roads and a commercial estate road. Pavements and crossing points provide connectivity for pedestrians and cyclists at all but one junction, and a lay-by next to the appeal site is dedicated to bus services. The Island has three lanes for much of its route which filter traffic towards exit points that are signposted on road signs, and painted lane markings.
12. I observed the Island in the afternoon, and a quieter time at dusk. I consider that the area is likely to be even busier during peak tourism season. During my visit I noted a steady flow of traffic, and bus users waiting at the dedicated bus lay-by. Pedestrians were using the crossing points to the north of the appeal site, including when traffic lights were still green, but cars were a safe distance away. I also observed that whilst vehicles were held at the traffic lights that directly face the appeal site on some occasions, other traffic light phases meant that cars were moving continually through the same junction on the approach from the north and east. During those times, traffic speeds were faster on the approach to the appeal site. The existing hoarding provides little in the way of distraction as it sits passively with no image changes or internal coloured lighting, with the only lighting being static and directed primarily onto the board itself.
13. The advertisement hoarding would be visible to drivers from the south of the Island round to the west side. I accept the conclusion of the appellant's highway safety report that for drivers approaching from Duncan Edwards Way, and those held at the traffic lights in front of the advert, navigation is relatively straightforward, and distraction is less likely. However, when navigating this part of the roundabout from the north or east, drivers must read road markings and road signs, watch traffic lights, and change lanes if necessary whilst having regard to other drivers doing the same. There may also be occasions where there is an extra requirement to watch for pedestrians, and also buses pulling into the lay-by. This task-loading would be particularly acute for drivers unfamiliar with the location, including tourists travelling to Dudley Zoo and Castle, and the Black Country Living Museum.
14. In this context, the changing of the images on the advertising display, regardless of the timing of their rotation and lack of a transition effect, would be a likely distraction to road users, even if only witnessing a single image change.
15. Furthermore, due to its proximity and similar verdant backdrop, the colour and light emanating from the internally illuminated display board may cause conflict and confusion with the traffic signal head, even with its backing board, if glimpses of similar colours are used in an advert. This is regardless of whether model condition 13 were imposed as the issue relates to the colours and light output rather than any display of a traffic light or road traffic sign. Whilst I note that the display technology would mean that brightness is controlled, the evidence before

me demonstrates that it would still be unmistakably illuminated, particularly when ambient light levels are low, and with changing images.

16. Whilst I note that there have been few traffic accidents in locations where the existing advertising hoarding is in view, I give this evidence limited weight. It only serves to demonstrate that the existing road environment has a reasonable safety record but does not substantiate why a changing illuminated display would be equally safe. I have carefully considered the contents of the highway safety report, however given my overall findings, I cannot conclude that potential for distraction and confusion can be afforded in such a heavily trafficked area, where there may be conflict with other road users and pedestrians.
17. In view of the above, I conclude that the digital advertisement would be harmful to public safety with particular regard to highway safety. In coming to my conclusion, I have taken into consideration Policy D12 of the Development Strategy and paragraph 141 of the Framework in so far as they are material. This is in respect of their requirement to resist proposals that are detrimental to public safety including highway safety.

Other matters

18. I acknowledge that the display board would be managed remotely, leading to a reduction in travel and its associated impacts. However, I consider this benefit to be minor, in comparison to the amenity and public safety harm that I have identified.
19. I also note that these types of displays may lead to an overall reduction in advertising sites, and a reduction in waste from poster displays; that advertising can be targeted, benefitting local businesses and emergency messaging requirements; that an upgrade from paper and paste advert to a six advert display may generate additional business rates; and that the site may be well-maintained with biodiversity enhancements, and it could meet Smart City objectives. However, there is no further information about these points, or mechanism before me which would secure on-site benefits, or the removal of advertising hoardings elsewhere. This limits the weight I attribute to the benefits of the proposal.
20. The appellant also notes that there are no houses in close proximity to the appeal site, so there would be no harm to amenity having regard to living conditions of any local occupiers. But this is a neutral point, and it does not justify the harm identified above.

Conclusion

21. For the reasons given above I conclude that the proposal would be unduly detrimental to amenity and to public safety. Accordingly, the appeal is dismissed.

E Heron

INSPECTOR