



Appeal Decision

Site visit made on 14 September 2021 by Ifeanyi Chukwujekwu BSc MSc MIEMA CEnv MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2021

Appeal Ref: APP/H4505/Z/21/3276228

207-209 Old Durham Road, Gateshead NE8 4BP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Wildstone Estates Limited against the decision of Gateshead Council.
 - The application Ref DC/21/00131/ADV, dated 29 January 2021, was refused by notice dated 7 April 2021.
 - The advertisement proposed is upgrade of existing 48 sheet advert to support digital poster.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework. Whilst I have had regard to the revised national policy as a material factor, in this instance the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

4. The main issues are: (1) The effect of the advertisement on the visual amenity of the area, and (2) public and highway safety.

Reasons for the Recommendation

Visual Amenity

5. Amenity is not defined within the Regulations nonetheless relevant factors include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. In assessing

- amenity, it is reasonable to consider characteristics of the neighbourhood. For example, whether the proposed advertisement would be in scale and keeping with important features.
6. The appeal site is an area of green open space located at the junction of Old Durham Road and Split Crow Road in Gateshead. The surrounding area is a mix of residential land use, with residential buildings on the same side of Old Durham Road as the appeal site and commercial uses on the opposite side at ground floor level whilst still having residential use at first floor. These shop fronts feature smaller non-illuminated adverts. Large, illuminated adverts are not a feature which make up the character of the area.
 7. The advertisement would be located in a prominent position at a junction and would be elevated. Thus, it would be highly visible from the surrounding area to both road users and pedestrians.
 8. While the proposal is described as an upgrade of an existing 48 sheet advert, at the time of my visit to the site, it was devoid of any billboard. However, a virtual image dated September 2020 does show that there was a large, mounted advertisement on the site, although there is no record of consent having been granted for that display. The appellant contends that the site is an established site for advertisement as the advert had been in-situ for a period of up to 10 years without any enforcement action taken to remove it. However, the evidence presented amounts to two photographs, one in 2012 and one in 2020. It is not clear if advertisements were present throughout that period or if they were periodically removed, as was the case at the time of my visit. Thus, the evidence is not conclusive on whether advertisements have been in situ for 10 years.
 9. Nevertheless, the advertisement proposal before me would be materially different from what previously existed in terms of its digital features on both sides. By virtue of the sequential format of displaying advertisements, with changing advertisements every 10 seconds or so, the proposed digital display panel would appear more prominent than the previously existing 48-sheet paper poster billboard.
 10. The changing display would draw the eye to a much greater degree, and it would have a much more overtly commercial feel. This would appear incongruous in the context of the mixed-use area, which is devoid of digital advertisement displays, particularly large billboards. The sequential format, with changing images every 10 seconds or so, would make it more prominent and accentuate its impact on the street scene.
 11. In addition, whilst the area may be well lit, and the intensity of the panel's illumination would accord with guidelines for illumination of advertisements¹, the proposal's illumination would be particularly prominent during the hours of darkness. The appellant further contends that night-time illumination would not exceed 300 candela per square metre. However, the presence of a 48-sheet illuminated digital advertisement panel which is in an open green area would introduce a more commercial element to this locality. It also would pay little regard to its semi-residential quality or the green backdrop of the open space. Consequently, I find that the proposal would have a harmful effect on the

¹ PLG 05: The Brightness of Illuminated Advertisements (Institute of Lighting Professionals 2015)

visual amenity of the area. The suggested controlling of illuminance would not mitigate the identified harm.

12. I conclude, therefore, that the advertisement would have a harmful effect on the visual amenity of the area. Consequently, it would conflict with the objectives of the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG).

Public and Highway Safety

13. The digital advertisement would be two-sided and visible to drivers on both directions on Old Durham Road from Shipcote Terrace at the junction entering Old Durham Road and from Split Crow Road. Drivers have to negotiate turning into Split Crow Road or Shipcote Terrace or going straight ahead from both directions on Old Durham Road. The advertisement would in direct line of sight of drivers in either direction. Also, vehicles exiting Shipcote Terrace or Split Crow Road would be aiming to merge onto Old Durham Road, or to cut across the main highway onto the other street. Multiple movements are likely at this multiple junction which creates quite a complex road layout where drivers undoubtedly need to exercise caution and have heightened awareness regardless of traffic signal controls.
14. There is quite a large volume of vehicular and pedestrian traffic at these junctions, as observed during my visit to the site.
15. The appellant has provided a review of accidents at the site over a five-year period which they argue shows a low rate of accidents at this junction. They further contend that none of these accidents could be said to be because of distraction from the previously existing poster display and that drivers would be able to glance at advertisements without distraction from road or traffic movements. However, the digital display of the proposed advertising is by its very nature designed to grab the attention of passers-by whether they be drivers or pedestrians. Given the location of the advertisement facing oncoming traffic at a sensitive point in the highway I find that there is a reasonable likelihood that drivers would be distracted in trying to figure out the advertising content as they approach, and the changing sequence is likely to draw more focus.
16. The 10 second timing is an industry standard and is considered acceptable for urban locations. However, even though the display would not show moving images and the change in specific images would be instantaneous, the rotation of advertising for different products has more potential to catch the eye of a driver than the previous fixed display. There is clear potential for a driver travelling in either direction on Old Durham Road towards the complex junctions with Shipcote Terrace and Split Crow Road to be momentarily aware of a changing image. Even a fleeting and inadvertent glance across at the display to register the change could have negative consequences in terms of the impaired ability to notice traffic pulling out of a junction ahead or slowing down to turn into one of the streets.
17. I conclude, therefore, that the advertisement would have a harmful effect on public and highway safety in the area. Consequently, it would conflict with the objectives of the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG).

Other Matters

18. The appellant suggests that the proposal would result in benefits through the reduction of the amount of waste generated from replacing the existing paper and paste style advertising, as well as increasing revenue potential of the site thereby also increasing the business rates due to the Council. However, these are all matters outside the scope of the Regulations and have not been determinative in this case.

Conclusion and Recommendation

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

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be dismissed.

Chris Preston

INSPECTOR.