



## Appeal Decision

Site visit made on 26 October 2023

**by David English BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8 January 2024**

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**Appeal Ref: APP/H4505/Z/23/3328962**

**Land at Durham Road, Birtley, Chester-le-Street DH3 2QX**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Stuart Reid of Komatsu UK Ltd against the decision of Gateshead Council.
  - The application Ref DC/23/00116/ADV, dated 6 February 2023, was refused by notice dated 28 July 2023.
  - The advertisement proposed is the erection and display of two freestanding 48-sheet advertisements.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) on 20 December 2023. Whilst I have had regard to the revised Framework, in this instance, the issues most relevant to this advertisement 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.
3. The description of the proposed advertisements in the Council's decision notice differs from that given in the application for consent to display the advertisements. I have not been provided with any formal agreement on this change. Accordingly, I have used the description given in the application in the banner heading above since this adequately describes the proposal when seen in conjunction with the plans and other details provided in the application.
4. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) allow the control of advertisements to be exercised only in the interest of amenity and public safety, taking account of any material factors. The Framework and the Planning Practice Guidance (the PPG) reiterate this approach and are material considerations to which I have had regard in my determination of this appeal.

### Main Issue

5. The effect of the proposal on public safety, including highway safety, are not matters raised as concerns to the Council, and, from the evidence before me and my observations during my site visit, I have no reason to disagree with that conclusion. The main issue is the effect of the proposed advertisements on visual amenity.

## Reasons

6. The appeal site comprises generally level grassed areas to the front of the Komatsu premises, a substantial commercial complex of largely two-storey buildings situated towards the edge of Birtley town centre. The buildings within the commercial complex are set back from Durham Road and, notwithstanding the handful of maturing trees within parts of the grassed areas, the frontage has a generally open appearance. A light-controlled road junction provides vehicular access and egress to the Komatsu premises from Durham Road. This appeared to be a generally busy road around the time of my site visit in the early evening.
7. The site is located in an area of mixed commercial and residential uses close to the edge of the predominantly commercial core of Birtley town centre. Buildings along this section of Durham Road are mostly two-storey and many of those to the north of the appeal site leading in to Birtley town centre have various forms of signage, mostly at fascia level. The most prominent existing internally illuminated advertising features in the vicinity are found at the nearby Jet petrol filling station located generally opposite the northernmost part of the appeal site.
8. The proposed advertisements would be positioned towards the northern and southern ends of the wide frontage of the Komatsu premises, both advertisements being set towards the rear of the frontage area and facing southwards and northwards respectively. Both proposed advertisement display hoardings would be readily visible from the highway to traffic and pedestrians approaching the site from the respective northern and southern approaches along Durham Road. The northernmost hoarding would also be visible from the junction of Harras Bank and Durham Road.
9. While there are various forms of advertising on commercial premises close to the appeal site, including some with internal and external illumination, the nature of those existing advertisements differs markedly from that proposed, specifically in respect of the overall size, freestanding positions, and means of illumination of the proposal. Moreover, as noted in the appellant's statement of case by reference to examples of similar digital display hoardings elsewhere in Gateshead Borough, the technology involved in the design, construction and external control mechanisms associated with the proposal allows for regularly changing images to be displayed. Such regular changes to the images displayed would serve to further emphasise the visual draw of the display.
10. The illuminated displays on elevated brightly lit screens, which would reach a height of around 5.7 metres above ground level, would be noticeably different to other smaller signs in the vicinity. Their scale in the context of nearby two-storey buildings would therefore not appear subservient in height to those surrounding buildings. While nearby street-lighting columns are taller than the proposed display hoardings, those lighting columns are slim, unobtrusive, simple, and utilitarian in appearance and function. This would contrast with the more complex imagery commonly associated with large, modern digital display hoardings, and the ability for these images to change relatively regularly.
11. Notwithstanding the assertion that digital displays such as those proposed are now commonplace across the road network, this does not in itself justify their universal introduction, and the lack of any such similar advertising displays in the vicinity does not weigh in favour of the proposal. The advertising displays

would appear as large, alien features in a location where illuminated advertisements are generally limited to those at fascia height associated with the various businesses nearby. The presence of a mixture of vegetation and commercial buildings in the backdrop to the appeal site would not mitigate the appearance of the proposed digital displays, nor would these existing features reduce the harm that would arise to visual amenity or assist in assimilation of the proposed displays into the context of the site in this case.

12. The function of advertising is to draw attention, and the introduction of brightly illuminated images on the proposed display hoardings would catch the eye, as is intended. However, the large, illuminated displays would appear brash and intrusive in this location where illumination in the public realm is generally limited to street lighting necessary in the interests of public safety. The proposal would introduce advertising features that would be uncharacteristic, dominant, and harmfully visually intrusive to this prominent location. The lack of heritage or advertisement control designations nearby, and the lack of public comments or objections about the proposal are not factors that weigh in its favour.
13. The appellant provides evidence showing other traditional advertisement hoardings displayed in the past in a location opposite the appeal site. However, from the evidence provided, those hoardings appear to have been significantly different in their appearance in respect of illumination, and, in any event, those hoardings have been removed and no longer provide part of the context or setting of the area surrounding the appeal site.
14. Reference has also been made to two other digital display hoardings said by the appellant to mirror the proposed advertisements in terms of size, scale, orientation and operational characteristics associated with digital illumination of static images. While both examples are some distance from the appeal site, I took the opportunity to view both during my site visit. The settings, circumstances and physical context of both examples differ significantly from the appeal site and are not directly comparable to the case before me.
15. The example located off Cuthbert Street<sup>1</sup> involved the removal of several existing hoardings and the Inspector noted in her decision that ‘...the advertisements are a prominent feature in the street scene’, and that the proposal in that instance would result in no material change in the appearance of the street scene. The example at Chain Bridge Road<sup>2</sup> is located alongside a dual carriageway that passes through a large commercial area, Chainbridge Industrial Estate, where advertisements of a similar scale are a common feature, and this provides a markedly different setting to that found in the vicinity of the proposal before me.
16. Whilst the PPG provides support for large advertising hoardings in commercial areas, it also requires that factors relevant to amenity, including the general characteristics of the locality, need to be taken into account in coming to a view on whether a proposal would have an adverse effect on the amenity of a locality. I have had regard to this approach in reaching my decision.
17. I therefore conclude that the proposed advertisement would be unduly harmful to visual amenity. I have taken into account the provisions of the Framework

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<sup>1</sup> Appeal Ref. APP/H4505/Z/17/3191150

<sup>2</sup> Planning Application Ref: DC/16/00443/ADV

so far as it is material in respect of visual amenity, specifically in that it advises at paragraph 141 that the quality and character of places can suffer when advertisements are poorly sited and designed. Given that I have concluded that the proposal would harm visual amenity, it would conflict with the Framework in this respect.

### **Other Matters**

18. While I recognise that a Council Officer gave written advice prior to the determination of the application that would have led the appellant to expect a different outcome on that application, I must determine this appeal on the basis of the evidence before me, including the Council's reasons for refusal, and that is what I have done.
19. The proposed digital advertisement hoardings may bring benefits in terms of opportunities for their use in promoting Komatsu UK Limited and other local and regional businesses, and they may have the potential to attract investment, including in the local area. Digital displays such as those proposed may also be consistent with current market requirements. However, recognising that the Framework indicates that advertisements are subject to control only in the interests of amenity and public safety, taking account of cumulative impacts, these are not matters to which I can have regard.

### **Conclusion**

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

*David English*

INSPECTOR