
Appeal Decisions

Site visit made on 10 April 2024

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Date of decisions: 8 May 2024

Appeal A ref. APP/R4408/Z/24/3338075

Barnsley Plumbing Centre, Rotherham Road, Barnsley S71 5RF

- 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 Vivid Outdoor Media Solutions (A) Ltd against the decision of Barnsley Metropolitan Borough Council.
 - The application ref. 2023/0946, dated 10 October 2023, was refused by notice dated 8 December 2023.
 - The advertisement proposed is "Installation of 1 x 48 sheet free-standing LED illuminated advertising display panel (measuring 6.2 m wide x 3.2 m high, and comprising pressed metal frame and sealed LED screen)".
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Appeal B ref. APP/R4408/Z/24/3338371

Barnsley Plumbing Centre, Rotherham Road, Barnsley S71 5RF

- 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 Vivid Outdoor Media Solutions (A) Ltd against the decision of Barnsley Metropolitan Borough Council.
 - The application ref. 2023/0871, dated 14 September 2023, was refused by notice dated 14 December 2023.
 - The advertisement proposed is "Installation of 1 x 48 sheet free-standing LED illuminated advertising display panel (measuring 6.2 m wide x 3.2 m high, and comprising pressed metal frame and sealed LED screen)".
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Decisions

Appeal A ref. APP/R4408/Z/24/3338075

1. The appeal is allowed and express consent is granted for the display of "Installation of 1 x 48 sheet free-standing LED illuminated advertising display panel (measuring 6.2 m wide x 3.2 m high, and comprising pressed metal frame and sealed LED screen)" as applied for at Barnsley Plumbing Centre, Rotherham Road, Barnsley S71 5RF (close to the site's western boundary). The consent is for 5 years from the date of this decision and is subject to the 5 standard conditions set out in the Regulations and the following additional conditions:
 - 1) The maximum permitted level of luminance of the display shall not exceed 300 candelas per square metre during twilight and night hours (dusk until dawn), in accordance with the guidance of the Institution of Lighting Professionals.
 - 2) The luminance level of the display shall be controlled by ambient environmental control which would automatically adjust the brightness level of the screen to

track the light level changes in the environment throughout the day to ensure that the perceived brightness of the display is maintained at a set level.

- 3) The approved display shall contain at all times a feature that will turn off the screen (i.e. show a black screen) in the event of any malfunction or error.
- 4) No individual advertisement on the LED screen shall contain moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.
- 5) There shall be a smooth uninterrupted transition from one image to another. Transitions shall be instantaneous, and no individual advertisement shall be displayed for a duration of less than 10 seconds.

Appeal B ref. APP/R4408/Z/24/3338371

2. The appeal is dismissed for the display in the site's eastern corner.

Preliminary matters

3. Since the Council issued its decision notices, the National Planning Policy Framework (the Framework) has been revised, with the latest version published on 19 December and updated on 20 December 2023. Those parts of the Framework most relevant to these appeals remain broadly the same.
4. Under the above Regulations powers to control advertisements are to be exercised in the interests of amenity and public safety taking into account the provisions of the development plan, in this case the Barnsley Local Plan (LP), so far as they are material and any other relevant factors. The Framework and the Planning Practice Guidance (PPG) reiterate this approach, with the Framework adding that cumulative impacts can be taken into account.
5. The first reason for refusal in Appeal B refers to an unacceptable increase in light pollution adversely affecting the first floor habitable room windows of Flat 3 on the appeal site. The PPG says it is a matter of interpretation by the local planning authority (and the Secretary of State) as to how considerations of amenity apply in any particular case. In practice, "amenity" is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the display. Whilst this does not extend to living conditions as such, one of the ways in which residents in Flat 3 would be aware of the display would be its illumination. In my judgement, the passage of light is one of the "*other relevant factors*" that cannot be discounted entirely but I have approached this aspect of Appeal B in relation to how those residents would experience the advertisement in visual amenity terms.
6. I have taken into account the comments of the Council's Highways Development Control (HDC) who objected in the case of Appeal A and recommended a temporary period of consent and other conditions for the scheme in Appeal B.

Main issues

7. The main issues in both appeals are the effects of the proposed advertisement displays upon the visual amenity of the site and its surroundings (including in Appeal B how residents in Flat 3 would experience the advertisement in visual amenity terms) and upon public safety.

Reasons

The appeal sites and the surroundings in general

8. Appeals A and B both relate to land within the curtilage of a former public house which is now occupied by the Barnsley Plumbing Centre, other businesses and flats. The appellant wishes to erect the display panels on the car parking area that surrounds the main building on the site, one next to the site's western boundary (Appeal A) and the other in the eastern corner of the site (Appeal B).
9. The main building and its associated car park are located on the northern side of the busy and fairly wide crossroads junction between the A628 Pontefract Road and the A633 (Grange Lane on the junction's southern side and Rotherham Road on its northern side). All 4 routes at the crossroads, which since late 2018 have been controlled by traffic lights after the removal of a roundabout, appear to be roads of more than local significance.
10. There is a digital display of the type proposed in Appeals A and B on the eastern side of the crossroads adjacent to Don Pepe's takeaway. Allowed on appeal in June 2021 under ref. APP/R4408/Z/21/3266528 as a replacement for a non-illuminated, 48-sheet poster display, it faces west across the junction in the direction of Rotherham Road.
11. The appeal sites do not fall within any designated heritage area and the surroundings are not characterized by the presence of any important buildings or features of obvious scenic, historic, architectural, cultural or similar interest. For planning policy purposes the land falls within the general "Urban Fabric". The general characteristics of the locality are defined by the busy adjacent thoroughfares, the area's mixed commercial and residential character around the crossroads and, of course, by the former public house building and its associated car park which has road frontages to Rotherham Road and Pontefract Road heading out north-east. There is a sizeable area of services and shops on the western side of that latter road just beyond the Barnsley Plumbing Centre in Lundwood but this is not readily apparent to observers around the crossroads given the sharp drop in elevation away from the crossroads to the north-east.

Visual amenity

12. Insofar as **Appeal A** is concerned, the rear of the display would not be obviously visible from public vantage points. The sizeable and far taller host building would be immediately adjacent to this display and remain the dominant feature on the site and in the street scene. The front of the display would have a moderate range of visibility when approaching northwards uphill along Grange Lane. However, being well set back from the roadside and the building line set by the host building and with a backdrop of mature and tall vegetation, this display would not appear unduly elevated or prominent or cause a serious degree of visual intrusion into the street scene. This area is likely to remain busy well into the evening and there would be various sources of illumination hereabouts including from business premises, street lights, passing car headlights and the nearby traffic lights on the junction. The sign's luminance would be neither obtrusive nor unduly prominent in the wider environment. In any event, the brightness and illumination of the sign would be controlled by an ambient light sensor system to recognised industry standards and reduced during the hours of darkness, whilst the rotational nature of the advertisements to be displayed would be well measured. The amenity of the area would not be harmed by these

aspects. This display would not be visually linked to a material degree with the digital display adjacent to Don Pepe's takeaway. There are no traffic route signs on the adjacent roadside. The only direct and obvious visual link would be to the signage relating to the host building. Thus, the display would not become part of a critical mass of signage that results in harmful visual clutter. Suitable conditions can be imposed to protect the visual amenity of the locality.

13. The display in **Appeal B** would be more problematical. Having found the scheme in Appeal A to be acceptable, a second digital display on this site would lead to an overtly commercial and unduly dominant visual display of advertisements which would depart too far from the area's mixed commercial and residential character around the crossroads. The cumulative impact would be unacceptable especially as there would be a notable degree of visual linkage with the sign in Appeal A and the one adjacent to Don Pepe's takeaway. Moreover, the Appeal B display would be prominently sited near to the roadside well in advance of the building line and appear to be at the top of a hill given the drop in elevation away from the crossroads to the north-east. It would appear as an unduly strident feature in a number of views from the south-west, many of which take in the attractive panorama to the north-east of a distant hillside with wooded areas that rises up from the valley below. It would be a distraction in these views. The backdrop of vegetation is not as strong as the one I referred to in Appeal A and should it fail for any reason the back of the display would appear exposed on the skyline on the approach up Pontefract Road from the north-east.
14. Notwithstanding the lack of objections from the occupiers of the first floor flats and the opportunity to restrict the illumination of the display between 23.00 hours and 07.00 hours, I consider that the display in Appeal B, given its size, relative alignment and proximity to the host building's elevation containing habitable room windows to Flat 3 and luminance at various times of the day and evening, would be obtrusive and prominent in the outlook from Flat 3. This display would be too much of an imposition on that residence to a degree that would be harmful in terms of how the occupiers experience visual amenity.
15. I find that the proposed advertisement display in Appeal A would not harm the visual amenity of the site and its surroundings. It would accord with the design principles in LP Policies GD1, D1 and Poll1. The Framework warns that the quality and character of places can suffer when advertisements are poorly sited and designed. This would not occur in Appeal A. The Council's Supplementary Planning Document: Advertisements (SPD) May 2019 suggests the Council is unlikely to grant consent for advertising hoardings. However, I have found that the scheme in Appeal A would not result in the over provision or poor design of signage giving rise to a cluttered and aggressively commercial appearance that has a damaging impact on the visual character of the area. To that extent, there would be respect for the SPD when viewed in the round. I take a contrary view on visual amenity in all these respects insofar as Appeal B is concerned.

Public safety

16. The PPG says all advertisements are intended to attract attention but those proposed at points where drivers need to take more care are more likely to affect public safety, for example, at junctions, pedestrian crossings or other places where local conditions present traffic hazards. The main types of advertisement which may cause danger to road users are said to include: those which, because of their size or siting, would obstruct or confuse a road-user's view, or reduce the clarity or effectiveness of a traffic sign or signal, or would be

likely to distract road users because of their unusual nature; and externally or internally illuminated signs (incorporating flashing or static lights) including those utilising LED technology.

17. The crossroads junction is likely to be busy with traffic throughout the day and into the evening. As well as the traffic lights on all 4 roads, there are signalised pedestrian crossing points on 2 arms, Rotherham Road and Pontefract Road (north-east leg). The responses from HDC and the PPG, added to these specific local factors, point to the need for careful scrutiny.
18. The display in **Appeal A** would be likely to be most visible to drivers approaching the traffic lights from the south along Grange Lane. This approach is straight and the view across the junction is relatively free of visual obstructions. There is minimal changing of lanes on the approach to the traffic lights. Most if not all of the vehicle drivers moving towards the sign from the south would be likely to have been aware of its existence for a notable amount of time given the uphill straight approach along Grange Lane and the relatively slow traffic speeds. They would have plenty of time to assimilate the advertisement as well as the traffic signs, lane markings, signals and their respective ongoing routes without being unduly distracted. The LED display would not be in a direct alignment with the traffic light heads and drivers would be able to readily differentiate between the light emitted from the LED display and that from the traffic lights.
19. Drivers heading north-east towards the traffic lights along Pontefract Road would have no clear sight of the proposed sign in Appeal A until virtually at the traffic light stop line. There is no opportunity to be distracted by it before they have made their key decisions and moves approaching the traffic lights and receive their next instruction from the automated changing of the lights. Drivers turning left onto Rotherham Road would become most aware of it very briefly on their initial turn but this is a simple enough manoeuvre. Suitable conditions to control the operation and luminance of the display screen would prevent any significant distractions to other road users heading away from the traffic lights to the other leg of Pontefract Road or turning right into Grange Lane.
20. Given the orientation of Rotherham Road and Pontefract Road (north-east leg), their traffic signals would not be located directly in front of the proposed advertisement. The display would not assert itself into the field of view of drivers approaching the lights from these 2 roads. These drivers would have had time to undertake their manoeuvres at the traffic lights before the signage is fully encountered, thus diminishing the potential for these drivers to be distracted. The signalised pedestrian crossing points function well and would be unaffected.
21. The Crash Map data supplied with the application shows that the traffic lights have dramatically improved safety at the crossroads junction when compared to the previous roundabout and that the signalised crossroads junction does not have a poor accident record as there were only 4 slight accident incidents there between 2019 and 2021.
22. The signage in Appeal A would not come as a surprise or unduly distract drivers from the highway layout which is not overly complex or increase the risks to pedestrians at nearby crossings or materially reduce the effectiveness of any traffic signal for any reason. Inbuilt mechanisms would control the operation and brightness of the digital images and suitable conditions can be imposed to require such mechanisms and to further protect public safety.

23. I take a different view on **Appeal B**. I have 2 key concerns.
24. There will be positions on the approach along Pontefract Road from the south-west where drivers may perceive the proposed sign to be directly behind the heads of the traffic signals. It would be quite possible in that scenario for the traffic signals, especially those on the kerbside, to merge with and become difficult to distinguish from the illuminated digital image behind, creating confusion for motorists. Failure to respond adequately to traffic signals would carry a significant risk to highway and public safety at this busy junction.
25. Of greater concern is the scenario that may develop at the junction with Lang Avenue, a very short distance beyond the opposite side of the traffic light junction where the Crash Map records one slight and one serious accident incident between 2019 and 2021. Drivers passing through the traffic lights need to be fully aware of vehicles in front stopping abruptly after the lights to turn right into Lang Avenue. The display would be likely to distract drivers at a critical point in making these judgements. This very real concern is exacerbated by the natural tendency of drivers to accelerate after a traffic light junction, the downhill slope of Pontefract Road between the lights and the junction with Lang Avenue, the lack of a safe right-turn harbourage and the use of Lang Avenue by visitors to Monk Bretton Priory, many of whom may not be familiar with the area and road layout and may be late in catching a glimpse of the associated brown tourist sign pointing towards Lang Avenue.
26. I find that the proposed advertisement display in Appeal A would not cause a sufficient level of distraction to road users as to result in an unacceptable impact on highway safety. This scheme would not therefore result in harm to public safety. As it would not have an unacceptable impact upon highway safety, there would be respect for LP Policy T4, the SPD and the Framework. I take a contrary view on public safety in all these respects insofar as Appeal B is concerned.

Other matters

27. Other approved or refused examples of similar digital displays in the Council's area or further afield have only a limited bearing on my decisions as they do not fully replicate the particular visual amenities and public safety conditions at and around the appeal sites before me.

Conditions

28. The Council suggested in the questionnaire for Appeal A that no conditions other than the 5 standard conditions should be imposed in the event of the appeal succeeding.
29. On the other hand, the appellant, in the planning letter statement submitted with the application, suggested 5 additional conditions to control illumination levels during twilight and the hours of darkness and advert duration and transition, secure the provision of an inbuilt ambient light sensor and a mechanism to turn off the display in the event of a malfunction and to prevent moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals. I consider these 5 additional conditions should be imposed because they are necessarily in the interests of amenity and public safety.
30. Neither these conditions, which are now commonplace for this type of digital display, nor the similar ones put forward on the Council's questionnaire for Appeal B would overcome the harm I have identified in Appeal B.

Conclusion

31. Having regard to all other matters raised in the written material before me, I have reached the conclusion that Appeal A should be allowed and that Appeal B should be dismissed.

Andrew Dale

INSPECTOR