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# Appeal Decision

Site visit made on 10 April 2024

**by Andrew Dale BA (Hons) MA MRTPI**

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

**Decision date: 09 May 2024**

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## **Appeal Ref. APP/R4408/Z/23/3334090**

### **The Outpost, 2 Union Street, Barnsley S70 1JJ**

- 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. 2023/0769, dated 10 August 2023, was refused by notice dated 12 October 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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## **Decision**

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 The Outpost, 2 Union Street, Barnsley S70 1JJ. 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 recommendations 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.

## **Procedural points**

2. Since the Council issued its decision notice, 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 this appeal remain broadly the same.
3. 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.

## **Main issues**

4. The main issues are the effects of the proposed advertisement display upon the amenity of the site and its surroundings and upon public safety.

## **Reasons**

### *Amenity*

5. The proposed display would stand at the northernmost end of the car park of The Outpost public house which is located at the junction of Union Street and a busy dual carriageway leg of Sheffield Road (A61), one of the strategic highway routes leading into Barnsley town centre from the south. The display would face northbound road users approaching the town centre along Sheffield Road.
6. The appeal site does not fall within any designated heritage area and its surroundings are not characterized by the presence of any important buildings or features of obvious scenic, historic, architectural, cultural or similar interest. The sizeable building occupied by the Barnsley Baptist Church, which seems to date from the middle of the last century, stands on the opposite side of Union Street. This building plainly has religious interest but the display would be far removed from that building and would not interfere with any important views of it.
7. Although for planning policy purposes the actual site for the sign might be on land within the general "Urban Fabric", the display would take its place within a busy and mainly commercial area on the very edge of Barnsley town centre. Indeed, the Alhambra Shopping Centre is only about 300 m from the site of the sign and can be seen from some vantage points on Sheffield Road when heading north that would also take in the proposed sign.
8. The general characteristics of the locality are defined by the edge of town centre location, the busy adjacent thoroughfare, the mix of commercial uses in this highly urbanised neighbourhood and, of course, by the large public house building and its associated car park which is bounded by a wall and some vegetation along Sheffield Road. Unsurprisingly, whilst I saw no digital displays close by of the type proposed, there are other advertisements of various designs, forms and heights along Sheffield Road especially on the opposite (eastern) side. The closest residential properties on Copper Close are largely screened by the public house or by mature vegetation bordering the northern edge of its car park. Being within a predominantly commercial area of a major conurbation where there are large buildings and a main highway gives this locality a character which the PPG identifies as likely to be a suitable location for a large poster-hoarding, especially as I consider that the display can be accommodated without adversely affecting

the visual amenity of the neighbourhood of the site. The reference in the PPG to a "major city" should not be taken literally since the advice is laid out for illustrative purposes and no definition is given by what is meant by "major city".

9. The appeal scheme would not provide an alien or incongruous feature given the nature of Sheffield Road, the locality and the existing signage along this commercial corridor. Rather, its contemporary design would make a positive contribution to the appeal site as the public house and its car park merit no accolades in terms of their design and contribution to the townscape. The rear of the display would not be obviously visible from public vantage points given the band of mature vegetation behind it. Owing to its standard width, surface area and height for displays of this type, it would not appear out of scale to passers-by. The adjacent sizeable and far taller public house building would be unaffected and remain the dominant feature on the site and in the local street scene.
10. The front of the display would have a reasonably long range of visibility along Sheffield Road but this would be more to do with the straight alignment of that road than the design, size and location of the sign or the public house's car park in front of it. Being set in from the roadside beyond the relocated public house sign and with a backdrop of vegetation, the 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 the public house, the lighting over its car park, the streetlights, passing car headlights and the nearby traffic lights on the junction. The sign's luminance would be neither obtrusive nor unduly prominent. In any event, the brightness and illumination of the sign would be controlled by an ambient light sensor system to recognised industry standards and 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. Suitable conditions can be imposed to protect amenity.
11. The display would not be visually linked with any other digital displays. There are no traffic route signs on the adjacent roadside. The only direct and obvious visual link would be to the relocated public house sign. Thus, it would not become part of a critical mass of signage that results in harmful visual clutter.
12. I find that the proposed advertisement display would not harm the amenity of the site and its surroundings. The scheme would not conflict with the design principles within LP Policy D1. The Framework cautions that the quality and character of places can suffer when advertisements are poorly sited and designed. This outcome would not occur in the case before me. 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 would not result in the over provision or poor design of signage giving rise to a cluttered and aggressively commercial appearance that would have 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.

#### *Public safety*

13. The Council's Highways Development Control (HDC) objected to this application. 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.

14. This section of Sheffield Road is likely to be busy with traffic throughout the day and into the evening. There is a crossroads junction a short distance to the south of the proposed sign with traffic lights on all 4 roads, together with a signalised pedestrian crossing point across Taylor Row, the road directly opposite Union Street. The response from HDC and the PPG, added to these specific local factors, point to the need for careful scrutiny.
15. The display would be most visible to drivers approaching the traffic lights from the south along Sheffield Road. This approach is straight and the view across the junction is relatively free of visual obstructions. 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 some considerable time given the long approach along Sheffield Road and the relatively slow traffic speeds. They would have plenty of time to assimilate the advertisement as well as the traffic signs, signals and their ongoing routes and to distinguish the kerbside traffic light head from the advertisement when, from some positions on the highway, it may momentarily appear positioned in front of the display.
16. Moreover, I did not find the traffic movements required of drivers moving along Sheffield Road from the south towards the traffic lights to be confusing or difficult or to require an excessive degree of concentration. Drivers have 2 simple choices: turning left into Union Street; or going ahead towards the town centre. The vast majority of drivers I witnessed, over a lengthy period of time during the middle of the day, follow that latter option and there is nothing complicated about it. There is minimal changing of lanes on the approach to the traffic lights. Right turns into Taylor Row are prohibited and this is readily notified in advance of the traffic lights by advance directional signage and lane markings in addition to the symbol at the bottom of a traffic light head.
17. Those exiting from the town centre to the north and heading south towards the traffic lights have a more precarious set of highway circumstances, including an additional lane for left turners, buses emerging from bus stops and a right-turn harbourage for Union Street which is barely wide enough for a car. Still, I am satisfied that these drivers would have no clear sight of the proposed sign and would have little opportunity to be distracted by it before they have made their key moves approaching the traffic lights. Given the orientation of Union Street and Taylor Row, their traffic signals would not be located directly in front of the proposed advertisement. The display would not unduly assert itself into the field of view of drivers approaching the lights from these 2 roads. Drivers coming down Union Street can only turn left onto Sheffield Road which is a simple enough manoeuvre. These drivers and those emerging from Taylor Row would have had time to look out for pedestrians and undertake their turning manoeuvres at the traffic lights before the signage is fully encountered, thus diminishing the potential for these drivers to be distracted by the proposal.
18. The signalised crossing points for pedestrians at this crossroads are located so as to enable them to cross over Taylor Row. This is on the opposite side of Sheffield Road to The Outpost public house. Moreover, pedestrians are required to wait before crossing. The advert would not interfere with pedestrian sightlines when

crossing or with the low-level pedestrian crossing signals. Union Street does not have a signalised crossing for pedestrians but any approaching that street from the south along the Sheffield Road footway would have had ample time to assimilate the advert before crossing the road and would be unlikely to be distracted by it when looking into the junction before crossing.

19. The Crash Map data supplied with the application shows that there had been no recorded incidents over the 5-year period from 2017 to 2021 involving traffic travelling north on the approach to the application site near the crossroads. The 4 slight and 2 serious accident incidents shown on the Crash Map appear to have involved vehicles moving south. This reflects my observations on the opposing approaches along Sheffield Road in paragraphs 15 - 17 above.
20. This type of signage is no longer viewed as being wholly unusual in nature. It would not come as a surprise or unduly distract drivers from the highway layout 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.
21. I find that the proposed advertisement display would not cause a sufficient level of distraction to road users as to result in an unacceptable impact on highway safety. The scheme would not therefore harm public safety. As the scheme would not have an unacceptable impact upon highway safety, there would be respect for LP Policy T4, the SPD and the Framework.

### **Other matters**

22. Other approved or refused examples of similar digital displays in the Council's area or further afield have only a limited bearing on my decision as they do not fully replicate the particular visual amenities and public safety conditions at and around the appeal site before me. Despite the close proximity of the site to 92 Sheffield Road, which was the subject of a dismissed appeal under ref. APP/R4408/Z/22/3300758 for a digital display, the physical circumstances of each site are different. That proposal would have seen the display stand out being fixed to the attractive stone gable wall of a modest terraced building well beyond the edge of the town centre, viewed by passers-by as they move out of the town away from the centre across an open area of mown grass without any roadside enclosure and sited next to a lamp standard and a traffic route sign that would have contributed to clutter. That display would also have had a direct and adverse impact on the more precarious set of highway safety conditions I remarked upon in paragraph 17 above and the signalised crossing points for pedestrians across Taylor Row, whilst the Crash Map record worked against it.

### **Conditions**

23. The Council suggested in the questionnaire that no conditions other than the 5 standard conditions should be imposed in the event of the appeal succeeding. 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. They are also now commonplace for this type of digital display.

**Conclusion**

24. Having regard to all other matters raised in the written material before me, I have reached the conclusion that the appeal should be allowed.

*Andrew Dale*

INSPECTOR