



102 Cricklewood Broadway, London

Wildstone Planning Ltd

Grounds of Appeal

17 November 2020

- Contents

1.	Introduction Summary	3
2.	Site and Surroundings	4
3.	Proposal	8
4.	Planning Regulations and Policy	10
5.	Planning Considerations.....	14
6.	Conclusions	17

Appendices

- APPENDIX 1 – Appeal Ref: APP/T5150/Z/17/3176241
- APPENDIX 2 – D-POSTER

1. Introduction Summary

1.1 These grounds of appeal have been prepared by Wildstone Planning in support of an appeal against the refusal of application 2020/0875/A for the replacement of 1no. 48 sheet poster display panel with 1no. 48 sheet digital poster display.

1.2 The proposal was refused under Officer's delegated powers on grounds of harm to amenity and public safety. The Council commented as follows in their reason for refusal:

"1. The proposed advertisement, by virtue of its size, design, location and illumination, would result in an unduly dominant and incongruous fixture to the host property and streetscape, would create visual clutter, detrimental to the character and appearance of the host property and wider streetscene, and would be harmful to the setting and special interest of the nearby locally listed buildings (Nos 82 - 100 Cricklewood Broadway), contrary to policies D1, D2 and D4 of the Camden Local Plan 2017.

2. The proposed sign, by reason of its size, siting, manner (sequential display) and illumination would be likely to distract drivers and other road users, endangering pedestrian and highway safety, contrary to Policies A1, T1 and D4 of the Camden Local Plan 2017".

1.3 The appellant contests the reason for refusal and considers the proposal to be appropriate to the context and in a location that would not be liable to cause a dangerous distraction to drivers paying due care and attention.

2. Site and Surroundings

- 2.1 The appeal site is located on the corner of Cricklewood Broadway and Richborough Road. The site supports a single poster and paste billboard and has done for well over ten years.
- 2.2 The site surroundings are mixed in character, with the host property located at the end of a row of shops and restaurants in the commercial centre of the Broadway, which is defined on the Local Plan proposals map as a Neighbourhood Centre. The majority of the buildings have commercial uses at ground floor with residential above, but it is noted that 102 Cricklewood Broadway is entirely commercial, with an Estate Agent at ground floor and surveying and accountancy practice above.
- 2.3 Richborough Road is a predominantly residential street, although the houses are set well back from the Broadway due to the garages at the rear of the host property and the Tyre and Exhaust centre opposite. The accommodation above the tyre and exhaust centre is assumed to be residential and would have windows facing towards the Broadway and the existing signage.
- 2.4 The appeal site is not within a Conservation Area, Article 4 area, or Area of Special Advertisement Control. The nearest listed buildings and structures are the Grade II listed Crown Public House and Lamp Standards in front, which are some 200m to the north and not experienced in the same view as the existing or proposed advert. The row of buildings opposite the site (82-100 Cricklewood Broadway) are locally listed.

Site Planning History

- 2.5 The proposal site is an established location for advertising, having supported a gable billboard for well over ten years. As the size and nature of the advertisement has not materially altered over this period it can be considered to benefit from deemed consent under Class 13(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
- 2.6 Camden Council has opened an enforcement case against the existing panel not to be in viable use. This is contested as the panel has not been removed and remains viable albeit at a lower rent to the landlord than the proposed panel (which in turn means less advertising spend and lower business rates to the Council).
- 2.7 The planning history section of the officers report also refers to a site at 60 Cricklewood Broadway as being refused and dismissed at appeal in 2012 (LPA Ref: 2012/6752/A & Appeal Ref: APP/X5210/H/13/2193945). Whilst this proposal was in reasonably close proximity (100m) to the appeal site and is accepted as being a comparable context, it is a central principle of planning that each site must be considered on its merits and this is even more relevant when considering matters of visual amenity which can be a

subjective matter of judgment. The decision in question is from 2012 and related to a different form of development on a different site.

- 2.8 In July 2017 an application for a 48 sheet digital display at 299 Cricklewood Broadway was allowed at appeal in an almost identical environment (Appeal Ref: APP/T5150/Z/17/3176241 - **Appendix 1**).



- 2.9 There are many examples of digital 48 sheet displays that have been granted consent at application or appeal stage in recent years in similarly mixed and arguably less commercial and less urban locations to the proposal site. A handful are listed below, with images and references:

Examples of digital displays allowed in 2020

*Images on next page



Proposal: 48 sheet digital display

Address: 272-274 Soho Road, Handsworth, Birmingham, B21 9LX

Appeal Ref: APP/4605/Z/20/3245193



Proposal: 48 sheet digital display

Address: 82 Midland Road, Bedford MK40 1QH

Appeal Ref: APP/K0235/Z/20/3252585



Proposal: 48 sheet digital display

Address: 20 High Road Leyton, Stratford E15 2BP

Appeal Ref: APP/U5930/Z/19/3243688



Proposal: 48 sheet digital display

Address: Advertising Right, 59 High Street, Gorseinon, Swansea SA4 4BR

Appeal Ref: APP/B6855/H/20/3249210

3. Appeal Proposal

- 3.1 It is proposed to replace an existing longstanding 48 sheet paper and paste advertising hoarding with a modern “digital poster” capable of posting adverts and public messaging remotely from a central location. The location and orientation of the advertisements will remain unchanged from the historic positioning. In all respects, the replacement panel will seek to mimic what has gone before, but with greater functionality and visibility after dark.
- 3.2 The proposed replacement panel is just 60mm thick and is referred to in the market as a digital poster or D-Poster due to its similarity to the traditional poster format. The 6m x 3m dimensions also mirror that of a traditional 48 sheet, so called as it is made up of 48 individual posters. The display will be lightweight and will be secured to the wall in the same manner as the previous panel without the need for any additional engineering. The luminance of the display is entirely controllable and will be set to mimic a traditional poster during the daytime. The night time luminance will be within the ILP guideline limits of 300cd/m² and can be reduced further on site to suit the context.
- 3.3 The appellant is willing to agree to a reduced level of luminance of 200cd/m² and a nighttime curfew (0000hrs-0500hrs) if deemed necessary by the Inspector in the interests of residential amenity.
- 3.4 Only static images (i.e. no moving images or flashing lights) will be displayed. However, the advertisements will be capable of changing to display new adverts every ten seconds depending on how the advertising space is sold. This is in line with industry standard units of advertising space for sale, and in compliance with the outdoor media code. The changeover between adverts will take place instantly in order to minimise the potential for driver distraction. This derives from advice received from road safety specialists in line with industry and planning standards.
- 3.5 The proposed conditions now well established across the industry as follows:
- At no time shall the Luminance level of the signs exceed the thresholds contained within the Institute of Lighting Professionals (ILP) guidance document PLG05 – The Brightness of Illuminated Advertisements 2015 (or any subsequent amendment/replacement to this guidance).
 - The sequential advertisements will not change more than once every 10 seconds;
 - Any sequential change between advertisements will take place over a period no greater than one second; and

- The sign shall not display any moving, or apparently moving images.

3.6 Should the Inspector deem it necessary in the interests of residential amenity the following conditions would also be acceptable:

- The intensity of the illumination of the sign shall not exceed 200 cd/sqm at night time;
- The displays shall be switched off at night time between the hours of 0000hrs and 0500hrs.

3.7 The scheme will meet modern requirements of advertisers. This will bring a wide range of benefits as follows:

- Investment in the site;
- Significant reduction in vehicle trips for reposting when compared with a traditional poster and paste advert;
- Part of a wider strategy to consolidate the number of billboards in the network;
- Eradicating the need to print posters and avoiding the associated waste involved in the production process;
- Ability to broadcast emergency messaging (e.g. public health messaging);
- Ability to use void periods for non-commercial campaigns;
- Opportunity for creative, real time and locally relevant advertising;
- Opportunity to integrate hardware to meet future Smart City objectives.

3.8 Content will be controlled remotely in real time from a Networks Operation Centre (NOC) and the site will be monitored remotely 24/7 to facilitate responsive maintenance. Diagnostics software will report and resolve the majority of issues remotely.

4. Planning Regulations and Policy

4.1 The display of advertisements is controlled by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, which requires Local Planning Authorities to exercise their powers only in the interests of amenity and public safety, taking into account the provisions of the development plan where they are material, and any other relevant factors. The Council refused the application on the grounds of amenity only.

4.2 The recently updated National Planning Policy Framework 2018 (NPPF) sets out the government's planning policies for England and how these are expected to be applied. The overarching theme of the document is sustainable development and seeks to achieve positive improvements in the quality of the built, natural and historic environment. The NPPF places great importance on the design of the built environment as a key aspect of sustainable development.

4.3 With regards to advertisements Paragraph 132 of the NPPF reflects the Regulations and states:

"The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts".

4.4 The National Planning Practice Guidance (NPPG) provides additional guidance to support the NPPF. In describing how to assess amenity impacts the guidance states:

"Amenity" is not defined exhaustively in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. It includes aural and visual amenity (regulation 2(1)) and factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest (regulation 3(2)(a)).

It is, however, a matter of interpretation by the local planning authority (and the Secretary of State) as it applies 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 advertisement.

So, in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.

This might mean that a large poster-hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.

If the advertisement makes a noise, aural amenity would also be taken into account before express consent would be given.

- 4.5 The proposal site is not within a conservation area and is in a commercial centre where there is other signage present. The site is not a listed building and has no heritage value. Whilst it is noted that the buildings opposite are locally listed, they would be physically unaffected by the proposal and are also commercial in nature. Given how long the site has supported advertising the principle of a proposal of this type in this location should be supported.
- 4.6 The Council have cited a number of development control policies in the reason for refusal. The Advertisement Regulations state that the provisions of the development plan should only be considered where they are material. As such, although they are not the determining factor in the consideration of this appeal, they provide additional information to support the consideration of amenity and public safety. The policies cited are considered below as follows:
- 4.7 **Policy D1** is a generic policy in relation to design and seeks development to respect local context and character. This is referenced due to the concern regarding visual amenity and is a matter of judgement. This is best considered in the context of Policy D4.
- 4.8 **Policy D2** relates to the protection of heritage assets and is cited due to the concern regarding the Locally Listed Buildings opposite the site. The policy seeks to weigh up the

effect of a proposal on the significance of a non-designated heritage asset will be weighed against the public benefits of the proposal. In this instance the proposal will not physically impact on the building or materially impact on its setting. The overall impact on the significance of the local listing would therefore be negligible and easily outweighed by the public benefits listed in paragraph 3.7 of this report.

- 4.9 **Policy D4** is the Council's policy in relation to advertisements. Shroud advertisements, banners, hoardings / billboards / large outdoor signboards are subject to further criteria as set out in supplementary planning document Camden Planning Guidance (CPG) on advertisements.
- 4.10 Th CPG guidance states *"...if an area has a mix of uses or is predominantly in commercial use, some poster or hoarding advertising may be acceptable where they satisfactorily relate to the scale of the host building or feature and its surroundings. They should be designed and positioned as an integral feature of the building"*.
- 4.11 Guidelines on when hoardings will not be considered acceptable include:
- in locations where they may prevent or significantly damage views or obscure light;
 - where they project forward of the face of adjoining buildings;
 - where they project above roof ridge/eaves level;
 - where they obscure architectural features or landmarks (including windows or window recesses); and
 - on side walls where they would be unduly dominant.
- 4.12 The proposal replaces a longstanding hoarding that benefits from deemed consent. It will have a slimmer profile to reduce the projection from the gable wall and will be located in the same position so as not to break the roofline or obscure the windows to the right and directly below the signage.
- 4.13 The CPG also states that the Council will resist the illumination of hoardings where it is a nuisance or out of character with the area. In this regard, the CPG supports the use of the ILP guidance PL05 "The Brightness of Illuminated Advertisements" to set appropriate limits. The proposal will fall within these limits and additional controls have been offered.
- 4.14 **Policy A1** seeks to protect the quality of life of occupiers and neighbours. This is referenced due to the proximity of residential windows opposite. The operators are

mindful that any complaints regarding light pollution could lead to the removal of signage and as such it is an imperative that they operate responsibly and within the limits set by ILP guidance. The location is an area of high brightness and the level of luminance will be appropriate to the context.

- 4.15 **Policy T1** Prioritises walking, cycling and public transport. This policy does not appear to be correctly referenced but is assumed to have been included in response to the concern over road safety.
- 4.16 The proposals will fit into an established context as they will replace a feature that has been in situ for well over ten years. The replacement panel will be a clear improvement on the traditional paper and paste panel and will signify investment in the area. The design is simple and clean and the positioning will ensure that the panel is well framed within the existing gable.

5. Planning Considerations

- 5.1 Camden Council refused the application on the grounds of amenity and public safety.

Amenity

- 5.2 The meaning of amenity can be wide ranging but in the context of assessing advertising it is usually defined as being the impact on visual amenity in the immediate neighbourhood. In this regard, the character of the area is that of a commercial high street with residential streets leading off it.
- 5.3 In the Officer Report, the Council consider the site to be predominantly residential, focussing on the character of Richborough Road rather than the Broadway where the signage will be viewed from. The report makes an assumption over the upper floors of 102 Cricklewood Broadway being residential, offering further evidence of a predominantly residential character. However, Google Street View would indicate the upper floors to have been in office use and a review of the Council tax register shows no residential property registered at this address. Whilst it is accepted that there are residential flats above shops at many addresses along the Broadway, the character remains predominantly commercial, which is an important point to establish at the starting point of considering this proposal. The officer has been unable to accept this point as the CPG itself states “...if an area has a mix of uses or is predominantly in commercial use, some poster or hoarding advertising may be acceptable”. Similarly the NPPG states that hoardings would be permitted in a “...commercial area of a major city (where there are large buildings and main highways)”. As such, whilst an assessment over impact is necessary, in principle the site should be considered as an acceptable location for this type of advertising.
- 5.4 The reason for refusal challenges the size, design, location and illumination of the signage. With regards to the first three points, there is an existing sign of the same design and dimensions which benefits from deemed consent on the basis that it has not caused harm to amenity in the ten year period allowed for action to be taken. As such, it is only the point on illumination that requires any form of assessment in addressing the Council's reason for refusal. The question is therefore whether the introduction of an illuminated sign will cause harm to visual amenity, residential amenity and be harmful to the setting of a locally listed building.
- 5.5 The first point to bear in mind is that the brightness of the display is entirely controllable and that the perception of digital displays as intense, bright and starkly contrasting features in the street scene is outdated. Unfortunately the first generation of digital billboards tended to be less easily controlled and often over illuminated. Even when correctly operated under strict controls, the pre-2015 guidance allowed night time levels of luminance at 600cd/m² rather than the current limit of 300cd/m².

- 5.6 As demonstrated in the images at **Appendix 2**, the signage would not appear vastly different to a poster and paste display during the day and can maintain that low level of contrast during the night with the additional controls suggested.
- 5.7 With regards to residential amenity, the proposed night time curfew of 0000hrs to 0500hrs will be a mitigating factor. However, the controls over the level of luminance are again the key to ensuring that there is no harm at other times. Provided appropriate levels of luminance are applied, there will be no intrusive light within the properties prior to the curfew. Anyone living above a retail parade on a main high street in an urban area will be expectant and accepting of a certain level of activity outside the windows. However, the aim would be to reduce the level of impact to a negligible level. As such a reduced maximum level of luminance has been proposed of 200cd/m² which is the level usually applied to Environmental Zone 2 (Rural) area despite this clearly being an Environmental Zone 4 (Urban) area.
- 5.8 Presented with an identical relationship and a proposal at the standard level of luminance (300cd/m²), the Planning Inspector at 299 Cricklewood Broadway commented *"I have not been convinced that the proposed advertisement would constitute a significant and prominent source of illumination or would cause an unacceptable detrimental impact to the amenity of neighbouring residents"* (Appeal Ref: APP/T5150/Z/17/3176241 - Appendix 1).
- 5.9 In terms of assessing the impact of the proposal on the locally listed building opposite, it needs to be considered whether the setting of the asset is significant and whether the proposal will change that setting to a degree that the significance of the building is lost. Given that the site has historically been used for advertising and that the street remains commercial and littered with illuminated signage primarily relating to the retail units, the introduction of illumination to the signage will not have any material impact on the character of the area or the setting of the locally listed asset. There is no prospect of the local listing being removed as a result of the proposed signage as there would be no harm to the character or special significance of the building as a result of these relatively minor changes.

Public Safety

- 5.10 The Council has included public safety as a reason for refusal based on the likely distraction to drivers and other road users based on its size, siting, manner (sequential display) and illumination.
- 5.11 Transport for London "Guidance for Digital Roadside Advertising" (2013) states that whilst not all sites are appropriate for advertising *"...with appropriate controls, digital advertising should be no more or less acceptable than traditional forms of advertising (i.e. backlight, poster and paste, vinyl etc)."* The proposal includes controls over the level of luminance and the rate and speed of change between adverts that are in line with the TfL Guidance and are now industry standard. Given that the site is an existing longstanding advertising site with no history of public safety issues, it follows that an

appropriately controlled digital advertisement in this location should be acceptable in road safety terms.

- 5.12 The approach to the site is straight and uncomplicated and the advert has plenty of forward visibility to ensure it does not become a sudden distraction. Nevertheless, at a ten second changeover it is still highly unlikely that drivers would ever witness more than one change in the advert and the majority of drivers would only see one advert at a time. The signage would assimilate into the street scene alongside all of the other signage of the Broadway and would not be an unusual feature that might divert attention. A review of crashmap shows there to be no unusual patterns of accidents around the location of the existing signage and that all of the accidents that have occurred in the last ten years have been classified as "slight". As such this is clearly not a dangerous stretch of road and there are no unusual features that would make it unsuitable for advertising. It is most relevant that the Council's Highways Officers were consulted on the scheme and did not raise a formal objection to the proposal.

6. Conclusions

- 6.1 In accordance with the NPPF advertisements should only be controlled where they are harmful to amenity or public safety. The proposal simply seeks to replace the existing poster and paste format of advertising with a digital version of the same size and impact, but with added functionality and associated public benefits.
- 6.2 The proposal will improve the image of the host building, provide economic benefits locally through increased business rates and stimulating spending; environmental benefits through reduced vehicle trips; and social benefits through enabling public messaging. As such there needs to be a tangible identifiable harm to preventing this development. Given that even the Council's own highways officers do not agree with the view on public safety and the Council's own guidance indicates that the location is acceptable, the only real consideration relates to the level of luminance which is entirely controllable. The additional restrictions proposed for the operation of this display should allay any concerns relating to visual amenity or residential amenity and will go beyond what was agreed as acceptable in the nearest comparable site at 299 Cricklewood Broadway, which was allowed at appeal in July 2017.
- 6.3 For the reasons given above, it is strongly considered that this appeal should be allowed.