

KIRKLEES METROPOLITAN COUNCIL INVESTMENT & REGENERATION SERVICE

DEVELOPMENT MANAGEMENT

**Town and Country Planning Act 1990 (as amended) – SECTION 220 &
Town and Country Planning Act (Control of Advertisements) (England)
Regulations 2007 - Regulation 14**

DELEGATED DECISION TO DETERMINE PLANNING APPLICATION FOR ADVERTISEMENT CONSENT

Reference No:	2022/64/92224/W
Site Address:	122, Lockwood Road, Lockwood, Huddersfield, HD1 3QX
Description:	Advertisement consent for erection of 1 x 48 sheet gable mounted digital advertising display unit
Recommending Officer:	Katie Chew

DECISION – Refuse advertisement consent

I hereby authorise the refusal of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Teresa Harlow

AUTHORISED OFFICER

Date: 23-Aug-2022

Officer Report

Site Description

122, Lockwood Road, Lockwood, Huddersfield, HD1 3QX

The application site relates to a stone-built detached two-storey property which is currently occupied by Shak's Snooty's which is a restaurant/takeaway. At first floor level the building is used as residential accommodation.

The site is accessed off Lockwood Road in Lockwood which is a 30pmh two-way single carriageway main distributor road. To the north of the site is a portion of undeveloped land bounded by a metal fence and hardsurfaced. To the south and west are a number of residential properties, and further to the east, across Lockwood Road are more residential dwellings fronting the highway.

The application site is not located within a Conservation Area but is located in close proximity to a Grade II Listed Building to the north-east of the site (no. 81 Lockwood Road) across Lockwood Road.

Description of Proposal

The application seeks advertisement consent for erection of 1 x 48 sheet gable mounted digital advertising display unit.

The digital advertising display unit is to measure 3.2m in height, 6.3m in width and 0.2m in depth. It is to be 3.6m from the ground and will project around 0.2m from the face of the building.

The sign would be internally illuminated and would comprise of a pressed metal frame with a sealed LED screen. The screen will provide various coloured text and static images of a maximum illuminance level of 600 cd/m2.

Full specifications have been included within the submitted application form, alongside existing and proposed elevation plans, site plan, location plan, specification drawings and a planning statement.

History of negotiations/amendments received

No amendments have been requested in this instance as it was considered that the planning concerns could not be overcome by the submission of amended or additional plans. The applicant's agent has been informed by officers that we cannot support the principle of such digital advertisements in

this locality on amenity grounds. Following this the applicant's agent did provide some additional information in respect of proposed illuminance levels, these are discussed in further detail within the officer's report.

Relevant Planning History

97/93512 – Change of use from grocers/off license to food takeaway. Approved 13th January 1998.

93/00081 – Change of use of ground floor offices to hot food takeaway. Refused 5th March 1993.

88/02366 – Change of use of shop to Estate Agency. Approved 23rd June 1988.

Consultation Responses

KC Highways Development Management – Comments received 8th August 2022. On balance, highways officers have no concerns with the proposals subject to a number of conditions.

KC Conservation & Design (informal) –the proposals would have a less than substantial impact on the setting and significance of the adjacent Listed Building to the north-east.

KC Environmental Health – Comments received 18th August 2022. Environmental Health do not support the proposals given the size of the advertisement and levels of illuminance. In addition, the proposed advertisement is to be in close proximity to adjacent residential properties and therefore there are concerns of stray light/glare and change in contrast which can give rise to the loss of amenity to these nearby sensitive residential properties.

Officer note: Following receipt of the above comments the applicant's agent has provided further information in respect to luminance levels. Stating that the level of 600cd/m² was outlined on the submitted application form as a '*maximum level of illuminance*' as the application form does not distinguish between daytime and night-time luminance levels. With regards to luminance levels during daylight hours, they believe that the most important requirement is that the level of luminance is set on site at an appropriate level for the area, and that the digital unit is controlled by the installation of ambient environmental control sensors to vary the brightness of the screen according to the brightness of the day. The light sensors will also ensure that the level of luminance of the advertisements is sensitive to the change in daylight from sunrise to sunset and from summer to winter. This will ensure that the perceived brightness of the display is maintained at a set level. It is also proposed that the unit will include a mechanism to freeze the image in the event of a malfunction. This requirement is applied by condition to any consent granted for the digital display and is one of the five standard conditions which were set out in the planning statement and are now

accepted as best practice guidance in the outdoor industry for the control of digital advertising displays.

The applicant also acknowledges the presence of residential dwellings in the locality and proposes that an additional condition could be considered to control the impact of the display during hours of darkness. The illumination of the display unit could be switched off between the hours of midnight and 7.00 am, in order to further reduce any impact on the amenity of neighbouring occupants.

On this occasion, this is considered to be sufficient to mitigate against officers concerns in relation to the impact on residential amenity of neighbouring properties.

The above is a summary of consultee responses. For full consultee comments please see the Council's planning webpage.

Representations

No publicity is required for applications regarding signs and advertisements.

Planning Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019) and the Holme Valley Neighbourhood Development Plan (adopted 8th December 2021).

The application site is located within Flood Zone 2, bat alert area and Newsome Neighbourhood Area. There is also a Listed Building to the north-east of the site (81 Lockwood Road).

Officer note: Whilst it is acknowledged that the application site is located within a Flood Zone 2 and Bat Alert Area, given the nature of the proposals which seek no works to the roof of the existing building, and would mount the proposed advertisement to the side gable wall of an existing property, officers consider it unlikely that roosting bats would be disturbed by the proposals and do not deem it necessary to apply the sequential test or exceptions test, as well as requesting a Flood Risk Assessment. The proposals are not considered to increase flooding risk on and off the site.

Kirklees Local Plan (LP):

- **LP1 – Achieving Sustainable Development**
- **LP2 – Place Shaping**
- **LP21 – Highway Safety**
- **LP24 – Design**
- **LP25 – Advertisements and Shop Fronts**
- **LP27 – Flood Risk**

- **LP30 – Biodiversity and Geodiversity**
- **LP35 – Historic Environment**

National Policies and Guidance:

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) July 2021, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance.

The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications. Most specifically in this instance, the below chapters are of most relevance:

- Chapter 2 – Achieving Sustainable Development
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Assessment:

Regulation 3 of the Advertisement Regulations limits the Local Planning Authority's powers in respect of advertisement applications to the consideration of amenity and public safety. Therefore, these are the key issues for consideration in this case.

Amenity:

Regulation 3(2a) of the Advertisement Regulations states that: factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.

Paragraph 136 of the NPPF recognises that the quality and character of places can suffer when advertisements are poorly sited and designed.

Policy LP25 of the Kirklees Local Plan states that the display of advertisements will only be permitted if they satisfy the following criteria:

“a. The design is consistent with the character of the existing building in terms of scale, quality and use of materials;

b. proposals respect the character of the locality and any features of historic, architectural, cultural or other special interest;

c. the shop fascia is designed to be in scale, in its depth and width, with the façade and street scene of which it forms part”.

The Planning Practice Guidance (PPG) refers to the possibility that large hoardings may be permitted in an industrial or commercial area of a major city

where they would not adversely affect the visual amenity of the neighbourhood of the site (Paragraph Reference ID: 18b-079-20140306). Whilst not significant in scale, regard needs to be had to the suitability of such a digital advertising screen in this location.

The proposal seeks to fix a digital advertising display screen on the side gable of an existing restaurant/takeaway which has residential accommodation at first floor level. The property is a detached stone built two-storey building which fronts on to the public highway Lockwood Road (A616).

The overall character of the area could be described as mixed residential and commercial. Whilst it is acknowledged that there are a number of commercial uses fronting onto Lockwood Road, it is considered that the locality is predominantly residential in character with the application site bounded by residential properties to the north, south and east. Buildings along this section of Lockwood Road are typically two-storey terraced or detached properties which front on to the public highway. The site is not within the Lockwood Local Centre as defined in the Kirklees Local Plan.

As highlighted above, large (48-panel) digital advertising screens are more likely to be considered appropriate in town/city centre locations, or where the surroundings are strongly industrial or commercial in character. The application site is neither.

Where there are adverts in the locality, these are small in scale, and they are generally related to the use of the commercial premises on which they are sited. In addition, there are no advertisements which comprise of internally illuminated LED screens within the immediate area.

Furthermore, it is also noted that the Council's Environmental Health officers were consulted on the proposals. Officers raised concerns in respect of the illuminance levels being 600 cd/m² on a surface area greater than 10m². This would be contrary to the lighting levels given in table 1 of the Institute of Lighting Professionals, Professional Lighting Guide (PLG)-05 for an advertisement of greater than 10m². In addition, there are no proposed hours of use within the application. Within the submitted planning statement, it is acknowledged that there are some residential dwellings in the location but these properties are sited at a significant distance from the application site, and that any views of the display would be oblique and incidental. Environmental Health deem these comments to be inaccurate as there are residential properties that have windows directly opposite the proposed development at a distance of approximately 28m. This raises serious concerns as stray light/glare and importantly the change in contrast that the different images that static advertisements create, can rise to loss of amenity to nearby sensitive residential properties situated at St Stephens Road and Lockwood Road, particularly inside living rooms after darkness has fallen and in bedrooms at night time.

The Institute of Lighting Professionals, Professional Lighting Guide (PLG)-05 in Table 1, gives maximum permitted illuminance levels for a sign with a surface area greater than 10m² as 300cdm², it also suggests additional controls for illuminated advertisements and questions the necessity to operate illuminated signs throughout the whole of the night time period, no evidence has been provided to support the need for the illuminated advertising display to remain illuminated throughout the night. Environmental Health therefore

object to the proposals due to inaccuracies within the planning statement and illuminance levels that do not meet current guidance.

The applicant's agent sought to provide additional information following on from the receipt of the above ENVH comments. They state that the operation of the digital display unit will be controlled by the 'five standard conditions' relating to levels of luminance and rate of advert change. However, they do acknowledge the presence of residential dwellings in the locality, and we would propose that an additional condition could be considered to control the impact of the display during hours of darkness. The illumination of the display unit could be switched off between the hours of midnight and 7.00 am, in order to further reduce any impact on the amenity of neighbouring occupants. Furthermore, they highlight that the recommendations within table 1 of the Institute of Lighting Professionals (ILP), Professional Lighting Guide (PLG)-05 for an advertisement of greater than 10m² is 300 cd/m² and states that this is for "*during the night*". However, with regards to luminance levels during daylight hours, the same ILP Lighting Guide states that "luminance should never exceed 5,000 cd/m²" and that the actual levels of luminance in this instance will in all likelihood be well below these recommendations. The application form does not ask the Applicant to distinguish between daytime and night-time luminance levels and this is why only the upper limit has been outlined.

With regards to luminance levels during daylight hours, they believe that the most important requirement is that the level of luminance is set on site at an appropriate level for the area, and that the digital unit is controlled by the installation of ambient environmental control sensors to vary the brightness of the screen according to the brightness of the day. The light sensors will also ensure that the level of luminance of the advertisements is sensitive to the change in daylight from sunrise to sunset and from summer to winter. This will ensure that the perceived brightness of the display is maintained at a set level. It is also proposed that the unit will include a mechanism to freeze the image in the event of a malfunction.

Taking the above in to consideration, officers appreciate the additional information and are in agreement with the day light and night time illuminance levels however, each application is based on its own merits and should the proposed advertisement be entirely unilluminated this would not be sufficient to override officers concerns with regards to the visual amenity, as discussed in further detail below.

Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Local Planning Authorities must, in considering whether to grant planning permission for development which affects a listed building or its setting, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. It is noted that this application does not seek 'planning permission' such that this duty may not apply. Nevertheless, in terms of amenity the impact of the proposal on the visual and historic amenity of the area will be assessed.

Chapter 16 of the NPPF states that in determining applications local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. If harm would result this should not be

allowed without a proportionate justification. This approach is affirmed by Policy LP35 of the Kirklees Local Plan, and also LP24(a) which says that the form, scale, layout and details of development must respect the character of heritage aspects.

Policy LP35 of the Kirklees Local Plan requires that proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure that they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development. Consideration should be given to the need to ensure that proposals maintain and reinforce local distinctiveness and conserve the significance of designated and non-designated heritage assets.

The Council's Conservation & Design officer was informally consulted on the proposals and whilst they raised no objections with respect to the proposals impacting on the setting and significance of this adjacent Grade II Listed Building (no. 81 Lockwood Road), this assessment is not considered to be sufficient to overcome officer's concerns as outlined above. The proposed screen is considered to appear jarring and intrusive within the residential streetscene surrounding the site and would be seen as a large and unsympathetic addition to the host building which would significantly detract from its traditional design and construction and the wider visual character and appearance of the area.

Finally, officers note that the applicant has provided supporting information in respect to an application at 84 Geldard Road, Birstall, Batley, WF17 9QB. Whilst it is acknowledged that this application was granted consent in 2020 under application reference 2020/93289, each application is based on its own merits, and the Council does have a plethora of examples of refusals of similar applications which have also been dismissed at appeal by the Planning Inspectorate, and therefore this supporting information has limited weight within the assessment of this application.

Taking the above into account, it is considered that the proposed digital advertising display screen would have an adverse effect on the visual amenity of the site and its surroundings due to the incongruous and intrusive presence that a large, illuminated advertisement would have in this predominantly residential area. Consequently, it would not accord with the National Planning Policy Framework, which states that the quality and character of places can suffer when advertisements are poorly sited and designed, or with the guidance in the PPG. Nor would it accord with Policies LP24 and LP25 1 (a) and (b) of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

Public Safety:

Regulation 3(2b) of the Advertisement Regulations makes clear that factors relevant to public safety include the safety of persons using the transport network, including the potential for an advertisement to obscure views of transport signage or equipment, and the potential for an advertisement to hinder the operation of any device used for security purposes.

The PPG sets out the main types of advertisements which may cause danger to road users. Of note, the PPG notes that this includes those, which would reduce the clarity or effectiveness of a traffic sign or signal, as well as illuminated signs when they are directly visible from the road or the means of brightness could result in glare and dazzle or distract road users (Paragraph 068 Reference ID: 18b-068-20140306).

Given the nature of the proposals the Council's Highways Development Management team were consulted. They highlight that the A616 Lockwood Road is a main access to/from Huddersfield Town Centre and as such will carry high volumes of traffic. The proposal site is positioned so that the screen will face the northeast and therefore will only be visible to traffic heading southwest from Huddersfield. They also note that the proposal site is not in line with any traffic signals or road signs and therefore will not cause interference with the ready interpretation of any signals or signs. Due to the long straight approach to the site of approximately 150m, drivers would be well aware of the sign before they arrived at it. The only possible cause for concern would be the right turn and the pedestrian crossing to the front of the site. However, both of these are protected with the central hatching and the crossing has a kerbed central refuge with lit keep left signs. These additions are considered to reduce the possibility of conflict occurring if the sign caused a momentary driver distraction.

Highway officers highlight that there are no existing collisions recorded for the junction or crossing and so it is assumed to be operating safely and the proposals should not increase road safety concerns sufficiently at this junction. By their very nature, all advertising boards cause some level of distraction, however the possible impact of the distraction can vary with the location and the volume and speed of traffic in the immediate location.

Taking the above assessment into account, although traffic volumes are expected to be high, especially in the peak hours, it is not considered that any distraction arising from the proposal would cause sufficient concerns about highway safety to recommend refusal of this application. Therefore, the proposal is considered to be in accordance with LP21 of the Kirklees Local Plan and paragraph 136 of the NPPF.

Conclusion:

To conclude, the application has been assessed against relevant policies in the development plan and other material considerations. In this instance the development would be harmful to amenity and for the reasons set out above, contrary to Policies LP24 (a) and LP25 of the Kirklees Local Plan and Chapter 12 of the NPPF. The application is therefore recommended for refusal.

Recommendation:

Refuse Advertisement Consent.

Decision Authorisation - Delegated Powers

Application Number: 2022/92224

Officer Recommendation: Refuse Advertisement Consent.

Reason(s) for Refusal:

1. The proposed digital advertising screen, by virtue of its illumination and changeable display, location within a predominantly residential area and its large scale in relation to the property on which it would be sited, would form a visually jarring, intrusive and incongruous feature within the street scene, to the detriment of visual amenity and would detract from the character and appearance of the local area. To permit such development would be contrary to Policies LP24 (a) and LP25 1 (a) and (b) of the Kirklees Local Plan and Policies within Chapter 12 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Web ID	Date Received
Site Plan	HLR1	-	30 th June 2022
Location Plan	HLR2	-	30 th June 2022
Specification Drawings Current Layout	HLR3	-	30 th June 2022
Existing Elevation	HD 101 HLR4	-	5 th July 2022
Proposed Elevation with 48 Sheet Digital Display	HD 101 HLR5	-	5 th July 2022
Crash Map Statistics – Supporting Information	HD 101 HLR6	-	30 th June 2022
Photomontage of Extant Express Consent at Gable of 84 Geldard Road, Birstall, Batley, WF17 9QB – Supporting Information	HD 101 HLR7	-	30 th June 2022
Planning Statement – Supporting Information	HD 101	-	30 th June 2022

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Authority have, where possible, made a preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. No amendments have been requested in this instance as it was considered that the planning concerns could not be overcome by the submission of amended or additional plans. The applicant's agent has been informed by officers that we cannot support the principle of such digital advertisements in this locality on amenity grounds. Following this the applicant's agent did provide some additional information in respect of proposed illuminance levels, these are discussed in further detail within the officer's report.

Report Dated:

23/08/2022