

ALIGHT MEDIA LTD

STATEMENT OF CASE FOR APPEAL

Appeal under Regulation 15 of The Town and Country Planning (Control of Advertisements) Regulations 1992 (and 2017 Amendments)

LPA: WREXHAM COUNTY BOROUGH COUNCIL

LPA REF: P/2022/0234

RE: LAND AT ANISE, 1 SMITHFIELD ROAD, WREXHAM, LL13 8EN.

Proposal: 1 x 48 sheet freestanding digital advertising display unit

This Statement of Case has been prepared in support of an Appeal against Wrexham County Borough Council's refusal of advertising consent application (P/2022/0234) by Alight Media Ltd ('the Appellant') for the "*installation of 1 x 48 sheet freestanding digital advertising display unit*", on the site at Anise, No.1 Smithfield Road, Wrexham, LL13 8EN ('the Appeal Site').

The legislative framework for the control of advertisements is contained within The Town and Country Planning (Control of Advertisements) Regulations 1992 (and 2017 Amendments) which state that advertising should be controlled in the interest of visual amenity and public safety, taking into account any material factors.

Planning Policy Wales (PPW) is the National Planning Policy for Wales. Technical Advice Notes (TANs) supplement PPW and give greater clarification. TAN 7 'Outdoor Advertisement Control' provides advice on how Local Authorities should assess advertisement applications. The Guidance recognises ... "*the importance of advertisements to the national economy and should not stifle original designs or new display techniques*" (Paragraph 4) and confirms that outdoor advertisements can only be controlled in the interests of 'visual amenity' and 'public safety' (Paragraph 6).

As public safety was not part of the reason for refusal, the determining issue within the Appeal relates only to visual amenity, which will be considered below.

The LPA cite in their reason for the refusal that:-

"The display would have a detrimental impact upon visual amenity by reason of the **over-stated commercial connotation**, out of keeping with its **immediate setting**, and therefore conflicts with policy/policies GDP1a and PS2 of the Wrexham Unitary Development Plan".

These two elements of the reason for refusal will be assessed against the determining issue of visual amenity.

1) VISUAL AMENITY

The immediate environment of the Appeal site is largely influenced by the transport corridor, the traffic volumes throughout the day, and the predominantly commercial nature of the land use. The Appeal site is located in a totally built up area, which is strongly commercial in character, and the advertisement proposal therefore reflects national policy guidance, insofar

as it is in a commercial area of large open scale. The street scene is typical of a commercial area where roads pass through a built up area with development, activity, and signage on all sides. It is considered that the Appeal site is the type of area where large roadside advertisements might be acceptable.

The development of digital advertising sites across the UK has been carried out over recent years in compliance with the policy guidelines and the core principles, which require advertising proposals to be of a good design, appropriate to their context, and assessed under the criteria of not being detrimental to visual amenity and public safety. It is considered that the location of the Appeal proposal would make an appropriate setting for a modern, well designed display unit that would relate to the character of the surrounding area.

Paragraph A4 of TAN 7 '*Outdoor Advertisement Control*' outlines various requirements to consider when deciding advertising applications. These relate to respecting the scale of surrounding buildings and locations, and having regard to "*the symmetry or architectural features of their location*".

The reason for refusal refers specifically to the **over-stated commercial connotation**, and the application site's **immediate setting**,

i) Over-stated commercial connotation

The LPA's statement that the proposed display's "**over-stated commercial connotation** would be **out of keeping with its immediate setting**" would appear to be contradictory, as the purpose of advertising is to promote commercial messages, and the immediate setting of the Appeal site is predominantly commercial in character. The proposed advertisement at the Appeal site would complement its immediate setting rather than be in conflict with it.

The commercial character of the surrounding area is highlighted in the support documents submitted with the Appeal as **APPENDIX A to E** inclusive. **APPENDIX A** shows the location of the proposed advertisement in relation to four viewing points around the Smithfield Road roundabout, which have been identified on the location plan as images No.1 to No.4 inclusive, and have been submitted as **APPENDIX B to E** respectively.

The 360 degrees panoramic view around the roundabout shows that the surrounding area of the Appeal site is predominantly commercial, although it is acknowledged that there is an element of residential use in Smithfield Road and Hightown Road, but these properties are located at a considerable distance, and are not viewed in the context of the Appeal site. The proposed display would not face directly on to these dwellings, and any views of the site from these residential properties would be oblique and incidental.

It does not automatically follow that illuminated advertisements would have a detrimental impact on residential amenity in an area such as the Appeal site. The locality is an urban area of mixed use, where commercial uses and other urban characteristics would be expected to prevail, and these would typically co-exist alongside residential uses.

It is therefore considered that the impact of the proposed display on residential properties will not result in any adverse impact on residential amenity or the character of the surrounding area.

An illuminated digital advertisement in a location such as the Appeal site would not be unusual and is exactly the kind of place where one would expect to find one, and is therefore in line with national and local policy guidelines.

The Appeal site is located on the southern boundary of a restaurant car park, where it forms a boundary with the adjoining pavement and highway with a railing and clipped laurel hedge creating the barrier between the car park and highway.

The area is in mixed use and is strongly commercial in character. It is dominated by mainly large-scale buildings such as the Eagles Meadow shopping complex and car park opposite and the adjoining Mecca Bingo site with the associated illuminated and non-illuminated signage.

It is very much a city centre location and is immediately adjacent to one of the primary retail areas. The site is also dominated by the highway's infrastructure of Smithfield Road and the A5152 Eagles Meadow Link Road as it takes traffic around the shopping centre.

The streetscene on the approach to the Appeal site is dominated by the large buildings of the retail development, which comprises major retailers such as Next, Boots, Sports Direct, and Marks and Spencer, together with a wide range of different shopping outlets, cinemas, restaurants, bars and multi storey car parks. The development provides residents and visitors with a pleasurable place to shop, eat, drink, and experience other commercial and leisure activities.

The surrounding area of the Appeal site forms the 'commercial core' of the city, which means that the proposed advertisement would face on to non-sensitive land uses, and the proposed digital display would be viewed in this context. It would **not** have an "*over-stated commercial connotation*", as by definition, an advertisement seeks to promote commercial products, brands or services to a viewership in order to attract interest, engagement and sales with these commercial activities.

Although advertising has mainly commercial connotations, the proposed digital display unit at the Appeal site would not be restricted solely to the advertising of commercial products and services of local and national businesses. The digital technology would provide the flexibility to display '*non-commercial*' local messages relating to Council, highway or emergency safety information if required.

The content of the signage is not subject of consideration, as the Regulations state that advertising should be controlled in the interest of visual amenity and public safety only, and the advertisement proposal should be assessed against these determining issues. The fact that the content of the advertisements may vary from '*commercial*' to '*non-commercial*' messages is not an issue, and the commercial connotation of the proposed display would not be overstated in the context of a predominately commercial environment.

The Appellant acknowledges that the proposed display could be considered to be unacceptable (or to have an "*over-stated commercial connotation*"), if it was located in a completely different setting such as a conservation area, landscaped or rural area, or other sensitive areas which are subject to stricter advertising controls.

It would appear that the LPA's reason for refusal has quoted a phrase ("*over-stated commercial connotation*") that was included in the Case Officer's Delegated Report for a previously permitted application for a similar 48 sheet digital (**P/2021 /0889 – Eagles Meadow Shopping Centre, Smithfield Road Wrexham**). A copy of this report has been submitted with the Appeal as support document **APPENDIX G**, together with a site photo submitted as **APPENDIX F**. This example of a consented 48 sheet digital display unit at

Eagles Meadow refers to an extant permission, and the site is pending development. A photomontage has therefore been submitted to show the proposed location of the site.

In this report the Case Officer referred to a previous application which was dismissed at appeal (**P/2020/0761 – Pentrefelin**), and where it was concluded that the proposed advertisement “*would be an overstated commercial connotation which is out of keeping with its immediate setting*”. In the report, the Case Officer considered that the illuminated display “*would be unduly prominent when seen against the backdrop of the landscaped bank with further planting framing the proposed display in that view. The proposed display would be shrouded by landscaping drawing views towards the display*”.

It is acknowledged that the presence of an illuminated advertisement may be considered to be out of keeping with the site’s landscaped backdrop and a “*green framing*” around the site in this case. However this type of site description cannot be applied to the Appeal site, where it has already been established that the surrounding area is predominantly commercial.

The Appeal proposal would not appear at odds with the busy character of the surrounding area. The highway is wide and well-lit at the point of the Appeal site, and therefore it has an open and spacious feel. In this context, the height and design of the display unit will be proportionate to the highway environment and the large scale buildings in the surrounding area, and would not appear visually intrusive and prominent in the street scene.

This is typical of an area where large roadside advertisements can be accommodated without any adverse effect upon the character and appearance of the area.

One of the purposes of the advertisement control system is to encourage the display of outdoor advertisements which make a positive contribution to the appearance of the environment. National guidelines set out a presumption in favour of ‘*sustainable development*’, and points out that the quality and character of places can suffer when advertisements are poorly sited and designed.

The national presumption in favour of ‘*sustainable development*’ means that unless there are specific adverse impacts that would significantly and demonstrably outweigh the benefits of the development proposal, it is considered that the Council should take a positive approach that reflects the presumption in favour of ‘*sustainable development*’.

‘*Sustainable development*’ is usually defined as development that meets the needs of the present without compromising the ability of future generations to meet their own needs. Advertising panels comply with this definition, as they are patently needed by advertisers and businesses, contribute to the economic health of the country, and can be easily removed without any trace and so not compromise the future.

National and Local policies recognise that advertising is an important part of commercial activity, in particular for retailing, which relies on external advertisements or signage to communicate information to sell goods or services. Advertising is a prominent feature in modern society, and it will have an important role to play in the revival of local and national economic activities in the ‘*post pandemic*’ period, when the Council will be actively seeking to promote the city, and so encourage more investment in businesses and events across the city.

The character of the surrounding area is clearly one of predominantly commercial use and as stated in the planning guidance in Paragraph A7 of TAN 7, this is a typical area where “*advertising may be acceptable when it is carefully related to the scale of surrounding*

buildings, and designed and positioned so as not to intrude upon or interrupt existing features or landmarks.”

The Appeal site is not located within a conservation area or an area of special advertisement control, and there are no heritage assets within close proximity to the site where their setting would be adversely affected by the proposed display.

A digital advertisement in a location such as the Appeal site would not be unusual, and it is not considered to have an over-stated commercial connotation, as it is located in a commercial area of large open scale. This complies with national guidelines relating to the location of advertisements in commercial areas, and advice set out in TAN 7 ‘Outdoor Advertisement Control’ which recognises the importance of advertisements to the national economy, and that local authorities should not stifle original designs or new display techniques.

Local and national policies acknowledge that businesses within commercial areas will need to announce their presence to customers and suppliers, and that well-designed signage can add to the vibrancy and visual appeal of modern urban settings.

The last decade has seen a shift from traditional billboards to high quality, stand-alone digital displays. This is seen as a positive response by the outdoor media industry to the government guidance which states that, *“development means growth and we must respond to the changes that new technologies offer us. Advanced, high quality communications infrastructure is essential for sustainable economic growth”*.

Local and National Government has a duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (WBFG Act). The Appellant considers that the assessment of the Appeal proposal should take into account the sustainable development principle and the well-being objectives of the Welsh Ministers which are set out in the WBFG Act.

ii) Immediate setting

Site photos have been submitted with the Appeal which clearly show that the Appeal site is located in a commercial and highway dominated setting, and this confirms the acceptability of the proposed sign in principle, in accordance with national guidelines.

When the Appeal proposal is assessed in terms of its effect upon the visual amenity of the local area, it would relate well in height, scale and appearance, and would not therefore appear incongruous. The site is set back from the highway and does not impact on sight lines or traffic signals. The display screen would create visual interest to an otherwise uninspiring location, and the modern design of the unit would be a feature in its own right. The interactive aspect of the digital advertising screen would add to the vitality and viability of the local businesses who would be using this facility.

Smithfield Road and the A5152 Eagles Meadow Link Road, is already home to a series of commercial buildings which incorporate signage on the outside, such the signs and fascias of the shopping centre and the Bingo Hall, several of which are large and illuminated.

The Appeal proposal will not be out of proportion with the surrounding built environment and its’ tall buildings. The location can absorb the advertisement without detriment, and it will not dominate the wider cityscape. There must always be larger and smaller items in any street

scene. There is no good reason why the proposed display should not form part of this mix. It will be a new, bright and attractive feature, wholly beneficial to this rather undistinguished stretch of a commercial street in an urban landscape. As to scale, the comparative features in the street scene at this point are the surrounding commercial buildings, which tower above the Appeal site.

The proposed display unit would not obscure or cut across any significant architectural features, and will not harm the visual simplicity of the backdrop to the site. It is acknowledged that the proposed advertisement would draw the eye, but it would be assimilated into the context of the surrounding area. Its proximity to the highway simply reflects its function to display the advertising to passing traffic, rather than being overly prominent.

The Appeal site is also located close to other sources of illumination and street lighting, which emit a considerably higher intensity of light, and therefore the proposed display would not detract from the visual amenity of the locality, which has an open and spacious feel at the point of the Appeal site.

The 48 sheet format is a commonplace and standard size for roadside advertisements. There is now an existing network of 48 sheet digital displays in Wrexham, although historically the LPA had adopted an '*in principle*' objection to this type of digital signage in commercial areas. This was obviously contrary to national policy guidance. The crux of the Council's objections appeared to be based on the fact that there were no similar digital advertisements in the locality, or the wider area of the city, but this is not, of itself, a valid argument for limiting consent. The absence of similar advertisements in the vicinity does not constitute a site-specific reason for the purposes of the Regulations or national planning policy guidance.

In recent years, the LPA's approach to digital advertisement applications appears to have changed slightly, and reference has already been made in this statement to the consented Digital 48 sheet display at ***Eagles Meadow Shopping Centre, Smithfield Road Wrexham***. (P/2021 /0889), and copies of the Officer's Report and site photo have been submitted as **APPENDIX F** and **APPENDIX G** respectively.

The Delegated Report included comments from the Chief Planning Officer, who referred to recent appeal decisions which granted consents at the following locations in Wrexham:-

Appeal. Ref. No. 20/3261337 dated 08/12/2020: Installation of 1 x 48 sheet freestanding digital advertising display unit on Land at Unit 2 and 3 Counterpoint, Regent Street, Wrexham, LL11 1PF

(Copies of the site photo and Appeal Decision have been submitted as **APPENDIX H** and **APPENDIX I** respectively).

Appeal. Ref. No. 21/3275061 dated 03/08/2021: Installation of 1 x 48 sheet freestanding digital advertising display unit on Land at Unit 1 Counterpoint, Regent Street, Wrexham, LL11 1PF.

(Copies of the site photo and Appeal Decision have been submitted as **APPENDIX J** and **APPENDIX K** respectively).

When considering the application at Eagles Meadows, the Officer took into account these decisions, and the commercial / retail character of the sites, and concluded "*that a re-appraisal of the previous decision is justified. In this location, where there are already two large hoardings and blank high walls of the shopping centre and also a lack of residential*

properties in immediate proximity the display is not considered to be out of character with the area”.

In addition to granting consent for the 48 sheet digital display at **Eagles Meadow Shopping Centre South Elevation (P/2021 /0889)**, the LPA has also granted consent for a double sided 2m x 8m digital sign on the **Eagles Meadow Shopping Centre North Elevation (P/2021/0291)**.

These decisions confirm that digital advertising is appropriate in commercial environments such as the Appeal site, and that the decision to refuse the Appeal scheme is therefore inconsistent with these consented decisions and national policy guidelines.

Digital advertisements of the size and design proposed in the application are now a common sight on arterial roads in most urban areas. In fact there are now over 1,000 48 sheet digital display sites in operation across the UK, ranging from cities as large as London and Cardiff to towns as small as Ilfracombe and Rhyl. The Appeal proposal is therefore considered to be consistent with current market requirements and planning developments.

The Appellant believes that the proper consideration for the purpose of the Appeal scheme is to measure the Appeal proposal against Government advice and consent decisions for similar digital applications in Wrexham and across the country.

LPAs should ensure that there is consistency in decision making, and the interpretation of the national guidelines relating to the impact of digital advertisements on visual amenity. The Appellant considers that the LPA has failed to assess the reality of the site and its surroundings, and its refusal decision was inconsistent with other similar digital application decisions, examples of which have been submitted as part of this statement.

There is presently no advertising display at the Appeal site, and the proposed display would be located at a significant distance from the two consented sites, and so would not be viewed in the context of these existing displays. It is considered that the Appeal proposal would not lead to an excessive, cluttered, or uncoordinated displays that would detract from the appearance of the buildings, the site or the locality.

The reason for refusal did not raise any concerns regarding the design, scale and layout of the proposed advertisement display, and by implication this suggests that the LPA considers the Appeal proposal to be appropriate for this commercial location, and therefore in compliance with policy GDP1(a) of the Wrexham Unitary Development Plan (UDP).

It is considered that the modular design of the slim and elegant display unit would complement and be viewed in the context of the modern commercial units in the immediate area. This will therefore comply with the requirements of policy PS2 of the UDP which states that the proposed development must not detrimentally affect the townscape character.

The overarching intentions of local policies are to prevent the proliferation of signs and advertisements and the resulting cluttered effect. As already stated, there is presently no advertising display at the Appeal site, however the fact that there is an absence of similar advertising in the vicinity is not, of itself, a valid argument for refusing consent. No doubt if there had been other similar panels in the area, the LPA could possibly claim that what is now proposed would create a clutter of such advertising in the vicinity. With only one advertisement display visible to passing traffic at any time, the Appeal proposal would not introduce visual clutter.

Paragraph A4 of TAN 7 states that *“free-standing units alongside the highway should be related to the scale of surrounding buildings and have regard to the symmetry or*

architectural features of their location". It is considered that the proposed display would be viewed in the context of the surrounding commercial properties, and so would not be an unduly prominent or obtrusive feature by reason of its size, height or location in a street scene which is dominated by the wide carriageway and large buildings with commercial uses.

In order to mitigate any potential harm to the visual amenity of the surrounding area, it is proposed that consent should be granted subject to the suggested conditions, which are required to formally control the use of digital displays. In order to comply with the outdoor industry digital media code, there are suggested conditions that relate to the control of the luminance levels, frequency, and manner of change between images, and which are widely accepted as best practice by LPAs across the country.

The Appeal proposal is submitted in the context of national and local policies which support high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. It is considered that the needs for sustainable development in this locality outweigh any minimal impact on the visual amenity of the surrounding area.

2) PUBLIC SAFETY

Public safety was not part of the reason for refusal, and therefore the determining issue within the Appeal relates only to visual amenity, which has been set out in detail in this statement.

CONCLUSION

In summary, it is considered that, subject to the recommended conditions, the proposal for advertisement consent is supported by local and national planning policies, and the Appeal should be allowed.

19th July 2022