

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/2022/0235

RE: LAND AT FORMER HAND INN HOTEL, 85 HOLT ROAD, WREXHAM, LL13 8NG.

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 of the Former Hand Inn Hotel 85 Holt Road, Wrexham, LL13 8NG ('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 and the traffic volumes throughout the day in an area of mixed use with a strong commercial presence. 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 states in its reason for refusal that the proposed display would have an "**over-stated commercial connotation**", however, the basic function of the advertisement would be to display commercial messages, in order to attract interest, engagement and sales with commercial products, brands or services in the local area and beyond. It is considered that its function to display advertising to passing traffic in an urban street scene cannot be over stated in a setting, which complies with national policy guidance relating to the suitability of advertising in commercial areas of large open scale.

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 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 A**. 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 the surrounding area is predominantly commercial.

The Appeal proposal would not appear at odds with the busy character of the surrounding area, as it would face on to non-sensitive land uses, and the proposed digital display would be viewed in this context. 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.

It can be seen from the site photo submitted with the Appeal as **APPENDIX B** that the siting of the proposed advertisement will have minimal visual impact, as the basic outline of the buildings to the rear of the Appeal site would still be clearly seen. Given its size, height and location against the backdrop of these commercial buildings, the impact of the display unit would be diminished.

The proposed display unit contained in the Appeal proposal does not obscure or cut across any significant architectural features, and will not harm the visual simplicity and general mass of the built environment which forms the backdrop to the site. The introduction of the digital form of display would represent a positive addition to the locality, and would not be against the interests of visual amenity, but would enhance the local area.

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.

The Appeal site faces directly on to a street scene where commercial, leisure, public and residential uses are in close proximity. This is clearly shown in the street view photo submitted as **APPENDIX B**, and also the additional street view photo submitted as **APPENDIX C**, which shows the view looking away from the site in a north easterly direction along Holt Road.

Both site photos show how the street scene has evolved with a great diversity of land uses including business, retail, leisure and public services, with many of the buildings comprising a mixed collection of nondescript post-war styles and more modern designed architectures.

The immediate surroundings of the Appeal site consists of the adjoining Morrisons supermarket and post office, a block of retail units containing a chip shop and some salons and several car parks servicing these commercial activities.

Looking north east away from the Appeal site the northern side of Holt Road is dominated by the large two storey building of the former Hand Inn public house. Having been closed for several years, the use of the public house premises has recently changed to accommodate

a training academy for holistic therapies and conventional office space on the ground floor, together with some multiple occupation residential use on the first floor.

It is acknowledged that there are residential properties located to the southern side of Holt Road, but these are located at a considerable distance and are not viewed in the context of the Appeal site, which would be angled away from the residential dwellings. The proposed display would not face directly on to these properties, 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.

As the outdoor advertising industry moves towards more flexible and sustainable media platforms, 48 sheet digital advertisements are now a common sight on arterial roads in major towns and cities across the country and as such, they are not an '*unusual feature*' in the street scene of commercial areas, and **cannot** be considered to have an "**over-stated commercial connotation**".

ii) Immediate setting

The Appellant believes that the proper consideration for the purpose of the Appeal scheme is to measure the "**immediate setting**" of the Appeal site 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 the planning statement and this appeal statement.

It is considered that the following two examples of recent appeal decisions, (which granted consents for 48 sheet digital displays at the following locations in Wrexham), are particularly relevant to the Appeal proposal.

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 D** and **APPENDIX E** 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 F** and **APPENDIX G** respectively).

These consented sites are considered to be relevant to the Appeal proposal, as they mirror the Appeal site in terms of size, scale and landscape orientation, and the same operational characteristics of digital illumination and static advert images.

It is considered that there are other similarities between the two consented sites and the Appeal proposal: namely that all three proposals involve the installation of freestanding displays in areas of mixed use, where commercial, leisure, public and residential uses are in close proximity.

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 Appeal proposal would be viewed in the context of the surrounding buildings, 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.

The purpose of referring to the above mentioned examples is not to highlight a matter of precedent in a planning sense, as we acknowledge that each case should be considered on its own merits. However it is considered that they help to illustrate how the LPA's assessment of the Appeal proposal is inconsistent with the assessments relating to the impact on visual amenity which were made in the consented appeal decisions.

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 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 an urban landscape. 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.

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.

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.

Many of these consented sites are to be found in locations similar to the Appeal site, particularly where there is a mix of uses including an element of residential use, and where the highway has an open and spacious feel. LPAs in these cases have followed policy guidelines to assess the potential impact of digital advertising displays in relation to visual amenity.

Reference can be made to a consented 48 sheet digital display where the Appellant has been successful recently in obtaining consent at the following location:-

Application. Ref. No. 213317 337 dated 17/02/2022: Installation of 1 x 48 sheet freestanding digital advertising display unit on Land at Former Heart of Oak Public House, 47 Newtown Road, Hereford, Herefordshire, HR4 9LJ

(Copies of the site photo, Decision Notice and Delegated Report have been submitted as **APPENDIX H** and **APPENDIX I** and **APPENDIX J** respectively).

The extant permission is in place to install a 48 sheet digital display at the site, and it is therefore pending development. A site photo has been submitted as a photomontage to show the proposed digital display in the car park of the former Heart of Oak Public House, where there has been a recent change of use to a residential institution providing supported accommodation and associated offices.

The consented display mirrors the Appeal proposal in terms of size, scale and landscape orientation, and the same operational characteristics of digital illumination and static advert images. The locality is also an area of mixed use character with the Hereford Retail Park located 100m north of the site.

In addition to the mixed use character of the locality and the change of use of a former public house premises, the other similarities with the Appeal site include the wide open spaces of adjoining car parks and the presence of residential properties in proximity to the site. The LPA's assessment in this case concluded that the application proposal did not represent a significant incursion in to a residential setting, and it would not compromise the amenity of the occupants of the properties located in the surrounding area.

We would have expected the LPA to make a similar assessment in the case of the Appeal proposal, and so determine the application in the context of Government advice and similar consent decisions. This would ensure consistency in decision making, especially relating to the consents already granted in the Wrexham area.

It is considered that in the case of the two Wrexham sites referred to in this appeal statement, and the example of the Hereford site, the residential properties in the surrounding areas are located at a considerable distance, and are not viewed in the context of the advertisements. Any views of the sites from the residential dwellings would be oblique and incidental, as the advertisements would not face directly on to these properties. As already stated, advertisements of the scale and design proposed in the Appeal are already found in similar urban areas of mixed use, where commercial uses and other urban characteristics are expected to prevail, and typically co-exist alongside residential uses.

The overarching intentions of local policies are to prevent the proliferation of signs and advertisements and the resulting cluttered effect. 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.

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.

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 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.*"

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.

An illuminated digital advertisement in a **setting** 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.

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.

To ensure that the display operates without harming either visual amenity or public safety, the Appellant recommends that the proposal adheres to the following schedule of planning conditions. They reflect best practice guidance and are consistent with the conditions applied to recent digital consent decisions issued by the Council and other LPAs across the country.

Suggested Conditions

- The maximum level of illumination should be no more than 300 c/m² during hours of darkness (dusk until dawn), in accordance with the terms of the Institution of Lighting Professionals, Professional Lighting Guide 2015 recommendations for maximum luminance (cd/m²).
- The luminance level of the display should 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
- The approved display should contain at all times a feature that will turn off the screen (i.e. show a black screen) in the event that the display experiences a malfunction or error.
- No individual advertisement on the digital screen will contain moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.
- There shall be a smooth uninterrupted transition from one image to another. Transitions shall be of not less than one second between static images, and no individual advertisement shall be displayed for a duration of less than 10 seconds.

CONCLUSION

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.

In summary, it is considered that the Appeal site is an appropriate location for a landmark advertising display, and the Appeal proposal for advertisement consent should be allowed, subject to the recommended conditions.

19th July 2022