

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/2020/0488

Re: Land Adjoining Units 2 and 3, Counterpoint, Regent Street, Wrexham LL13 7SU

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/2020/0488) by Alight Media Ltd ('the Appellant') for the "*installation of 1 x 48 sheet freestanding digital advertising display unit*", on the site of Counterpoint, Regent Street, Wrexham LL13 7SU ('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.

1) VISUAL AMENITY

There is presently no advertising display at the Appeal site, however, it is considered that this is an appropriate location for a landmark advertising site.

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. It is considered that the Appeal site 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 impact on the Conservation Area, and does not raise any concerns regarding any potential impact on the wider area which is predominantly commercial in character, and it is in this context that the proposed display would be viewed.

ii) Site and Surroundings

The Appeal site is located on a strip of land on the southern boundary of a forecourt area fronting the Counterpoint Retail Park. The site was formerly a petrol filling station which ceased trading in 2007 and was subsequently demolished. Having remained vacant for a number of years, the site was developed in 2014 with the erection of commercial units which are currently occupied by *Majestic Wine* and *bkoncepts* kitchen showroom. This commercial development was approved (**App. Ref. No. WRO P/2013/0120**), and considered to be in keeping with the surrounding area, which includes an adjacent site occupied by the Wrexham Central Retail Park and was allocated in the Unitary Development Plan (UDP) as Mixed Use.

The location is highly sustainable with the principle shopping street of Wrexham town centre located 200m away, and which provides a wide variety of local services and facilities. Wrexham General Railway Station and the Royal Mail sorting office are located directly opposite the site, and both Wrexham Football Club and Glyndwr University are within walking distance of the site.

The closest residential properties to the site are located some 85 metres to the south east, and the amenity of these occupiers will not be detrimentally impacted by the application proposal.

The Appeal site is bounded by Regent Street to the east, railway lines to the North West and the Wrexham Central Retail Park to the West, and is located outside the boundary of the Grosvenor Road Conservation Area. A copy of the Conservation Area Map has been submitted with the Appeal as **APPENDIX A**, which clearly shows that the site is located outside the south west boundary of the conservation area.

The proposed advertisement display will be directed towards the north, and so will not face towards any part of the Conservation Area. The only heritage asset in proximity to the application site is the Grade II listed railway station located on the east side of Regent Street, however, the approved commercial development at Counterpoint was considered by the Council to have minimal impact on this listed building.

The Appeal site broadly reflects the description of acceptable locations for large advertisements given in national and local planning 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 therefore considered that the application site is the type of area where large advertisements of the scale and design proposed in the application would be acceptable.

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.

ii) Have a detrimental impact upon the visual amenity and character of Wrexham Conservation Area

The LPA cite in their reason for the refusal that the proposed display ***“will have a detrimental impact upon the visual amenity and character of Wrexham Conservation Area”***.

The LPA refers to policies EC7 and EC9 of the UDP which require any development to preserve and/or enhance the character of the Conservation Area, and respect the setting and character of listed buildings and their structures. We do not believe that the Appeal proposal breaches the requirements of these policies when considered objectively.

Although the Appeal site is located outside the boundary of the Grosvenor Road Conservation Area, the proposed advertisement scheme respects the fact that site is located in close proximity to the Conservation Area. The proposed advertisement display will face towards the north, and so will not overlook directly on to any sensitive parts of the Conservation Area and will not be viewed in close proximity to any heritage assets.

The immediate environment of the Appeal site is dominated by the host property of the Counterpoint retail development and the adjoining Wrexham Central Retail Park, where Regent Street heads south into the commercial core of Wrexham town centre which provides a wide variety of local services and facilities.

The town centre contains most of the town's traditional shops and markets, together with modern retail developments such as the Eagles Meadow Shopping Centre, which consists of large department-type stores and many more national chain stores. It is also home to most of Wrexham's night-life including clubs, bars and restaurants. During the day the main attractions are the area's cafes, banks, arts and leisure activities, together with the traditional shopping streets with their historic markets.

Having regard to the commercial nature of the town centre, it is considered that this is a typical area where illuminated advertisements and commercial signage are commonplace. Many Conservation Areas include commercial premises ranging from small traditional shops and markets to thriving commercial centres, and advertising is accepted as being essential to commercial vitality.

National planning guidance places significant weight on the encouragement and support of economic development. There is no doubt that outdoor advertising is an essential element of the commercial activity of the country. It is a £1 billion per annum industry. It employs many people both directly and indirectly; and contributes large sums to both local and national exchequers in taxes and rates. It also helps to support the local economy and employment in the area by providing local businesses with the opportunity to raise their profile and generate an increase in their business activities. This will be particularly important in the ‘*post pandemic*’ period when the Council will be active in the marketing and promoting of the town centre, and so encouraging more investment in businesses and events across the town.

The Welsh Government publication ***“Managing Conservation Areas in Wales”*** sets out the policy context for the designation and management of Conservation Areas and the duties

of local planning authorities. It also identifies key aspects of best practice for their designation and appraisal, including the participation of stakeholders and the development of local policies for positive management and enhancement, so that their character and appearance are preserved and enhanced.

This best-practice guide is aimed mainly at local planning authorities to ensure a consistent approach to conservation area designation, appraisal and management throughout Wales. (May 2017).

Reference should be made to **Section 6.2 Advertisement Control in Conservation Areas** which states that *“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”*.

LPAs may choose to adopt advertisement control policies as part of their proposals for the preservation or enhancement of Conservation Areas, for example, by the designation of areas of special advertisement control. However, the designation of a Conservation Area does not necessarily justify it being defined as an area of special control of advertisements.

Local planning authorities should use such controls flexibly in Conservation Areas to preserve those features of architectural or historic interest which led to designation. Design guidance may also help authorities to encourage suitable advertisement design, and so support advertisement developments in non-sensitive areas of the Conservation Area.

Although the location of digital advertisements are not normally permitted within the sensitive areas of a Conservation Area, Councils across the UK have decided that *“appropriately sited and well-designed”* digital advertising may be acceptable in Conservation Areas.

There are many examples in other towns and cities in England and Wales of digital advertising displays being located within or in close proximity to Conservation Area locations. Applications for advertising consent have successfully gained approval, and been proved not to have an adverse impact on the visual amenity of Conservation Areas. In these cases the relevant LPAs considered that the proposed developments were *“appropriate in the street context, and preserved the character and appearance of the conservation areas”*, as they were also located in predominantly commercial areas.

In reaching these decisions, the LPAs had regard to the duty placed on them to pay special attention to the desirability of preserving the character and appearance of the conservation areas. Taking into account the material provisions of the Councils’ development plans and all other relevant factors, it was considered that the proposed displays would have no detrimental impact on visual amenity in the commercial localities of the Conservation Areas.

The purpose of referring to these examples is not to highlight a matter of precedent in a planning sense as we acknowledge each case should be considered on its own merits. But it is considered that they help to illustrate how the LPAs in these cases made judgments on the impacts of digital advertising displays in Conservation Areas in relation to visual amenity.

One example of a consented digital display located in a Conservation Area relates to an advertisement proposal which was granted consent by Denbighshire County Council. Whilst not a decisive factor in its own right, it is considered to be relevant to the Appeal proposal. The consent decision related to 1 x 48 sheet digital advertising display unit at 8 Kinmel Street Rhyl LL18 1AH (**App. Ref. No. 45/2018/ 1155**). A copy of the decision notice, site photo, Conservation Area Map, and a site view photo of an adjoining listed building have

been submitted with the Appeal as **APPENDIX G**, **APPENDIX H**, **APPENDIX I** and **APPENDIX J** respectively.

The advertisement at 8 Kinmel Street, Rhyl is located in the vicinity of a Grade II Listed building (Apollo Theatre and Bingo Club) and located in the Rhyl Central Conservation Area, it is also located in the “commercial core” of the town, and the immediate surroundings include local businesses and some residential buildings. (This is clearly shown on the site photo submitted as **APPENDIX J**, which shows the relative positions of the advertisement site and the listed building, and the distance between them).

The Council carried out a full impact assessment on the application proposal and decided that *“this appropriately sited and well-designed digital display unit”* was acceptable in this setting. In reaching this conclusion, the Council assessed any potential impact on the nearby listed building, and decided that the proposed display was located sufficiently away from the listed building not to detract from its setting. It was considered that the digital advertisement was appropriate in the street context, and did not have any detrimental impact on the character and appearance of the nearby listed building or the surrounding area of the conservation area.

When discussing suitable locations for large format advertising, TAN 7 states: *“If a locality is in a mixed use, with shops or offices interspersed with residential development..... Some poster 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”*.

Whilst acknowledging the commercial nature of the town centre, it is also accepted that the town centre is Wrexham's medieval core, and as such contains most of its history. The highest concentration of listed buildings are found in the High Street and Temple Row areas in the vicinity of St Giles Church.

There are no heritage assets located in proximity to the Appeal site, which could be detrimentally affected by the proposed display. The Grade II listed building of the Adult Education Centre of the University College of North Wales is the nearest listed building, but is located approximately 150 metres south of the Appeal site. As there are sufficient urban building patterns and sufficient distance between them, the Appeal site is not viewed in the context of this listed building.

The Planning Officer provided comments from the Conservation Officer in an email dated 08/10/20, a copy of which has been submitted as **APPENDIX F**. The Conservation Officer stated that the digital display unit would be seen directly in the context of the Edwardian Terrace, 57-67 Regent Street which has been identified as an important townscape group within the Grosvenor Road Conservation Area, but they are not listed buildings.

This terrace of two storey properties were formally houses, but over recent years they have been converted to mixed office and residential use. They comprise a simple construction of red bricks and slated roofs.

A selection of site photos have been submitted as **APPENDIX B** to **E** inclusive, and these show the views on the approach to the Appeal site, and confirm that the proposed display would not be viewed with 57-67 Regent Street as the backdrop. It is considered that the proposal would sit comfortably in its visual context without harming amenity, the qualities of the site or the character and appearance of the wider area.

The proposed display unit would not obscure or cut across any significant architectural features, and its scale, design and landscape orientation would not harm the visual simplicity of the built environment in the surrounding area. The setting is highway dominated and predominantly commercial in character, and is therefore considered as entirely appropriate for illuminated roadside advertising in line with the policy framework.

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”*. The Appeal site would be viewed in the context of the adjoining commercial units of Counterpoint, which are one storey rectangular buildings. These units are totally utilitarian and are situated longitudinally along the west boundary of the site with entrances to the units from the main car park area. The commercial units are modern in their massing and the use of materials. The frontages of the units are designed in a modular pattern and finished with aluminium panel cladding together with low level brick plinths.

The proposed display unit would be located at a 90 degrees angle to the frontages of the commercial units. Although the unit is large, it is considered that its simple rectangular form presented with horizontal emphasis would respond well to the form and size of the commercial units which have a horizontal emphasis. The adjacent section of the main radial route reflects a strong commercial character.

Given the size, height and location of the display unit, it is not considered that the proposed display unit would constitute a prominent feature in the street scene.

The Appeal proposal would face traffic travelling south towards the town centre. It would be seen against the backdrop of the rows of mature trees and soft landscaping located on both sides of Central Road which would provide greenery around the advertisement, and also a barrier between the Appeal site and the terrace of 57-67 Regent Street.

It is acknowledged that the proposed digital display unit would draw the eye, but there would be a contrasting effect between the unit and the backdrop of the trees behind, and so its impact would be softened and diminished by the greenery which surrounds it. The display would be assimilated into the context of the surrounding area, and its proximity to the highway boundary simply reflects its function to display the advertising to passing traffic, rather than being overly prominent.

It is considered that the Appeal proposal would not interfere with, obstruct, or detract from the views and facilities of the terrace of 57-67 Regent Street. The proposed display unit would be viewed in the wider context of the commercial uses that surround the Appeal site, and would complement the local character and be sympathetic to the surrounding built environment.

The display would be assimilated into the context of the surrounding area, and its proximity to the highway boundary simply reflects its function to display the advertising to passing traffic, rather than being overly prominent.

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 character of the surrounding area of the Appeal site is clearly one of predominantly commercial use. Despite its location in close proximity to the Conservation Area, it is considered that the proposed advertisement would not cause injury to any parts of the Conservation Area, as there are sufficient urban building patterns and sufficient distance between them. The Appeal proposal does not face in the direction of the Conservation Area, and there are no residential properties near to the Appeal site which would overlook the advertisement. No third party would be disadvantaged by the Appeal proposal, which is therefore considered to be acceptable in this respect.

Landmark advertising sites can help to stimulate the local economy, as well as adding interest to the street scene, bringing colour to drab areas, making areas safer at night through better illumination, and screening eyesores

The proposed development would not only introduce an innovative method of displaying advertisements and provide a positive contribution to the street scene, it would also provide other benefits to the Council in its attempts to market and promote the town centre..

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 Ministerial 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.

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 LPA 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.

Local and national policies recognise that outdoor 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 contributes to the attractiveness of the urban street scene by introducing colour, variety, and interest.

At the same time, it is acknowledged that the Council has to balance need for sustainable development against the visual aspects of maintaining an attractive environment. It has been accepted that digital displays can enhance iconic town and city locations by providing

features that are impactful, distinctive, innovative and modern, in addition to making a positive contribution to the street scene.

The Appeal proposal would reinforce this gateway point to the commercial core of the town centre, and as stated in the planning guidance in Paragraph A7 of TAN 7, this is a typical commercial area where *“poster advertising may be acceptable when it is carefully related to the scale of surrounding buildings”*.

It is considered that the proposed display 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 proposed display would not be so harmful as to fail to preserve the character and appearance of the Conservation Area.

Given that the proposed display would be located at a significant distance from the sensitive areas of the Conservation Area, and it would be set within the modern context of the surrounding commercial buildings, it is considered that it would not be detrimental to the character of the locality.

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 area outweigh any minimal impact on the character and appearance of the Conservation Area.

iii) Other matters for consideration

The Appellant acknowledges that making an appeal should be used only as a last resort, and the LPA has an obligation to work in a professional and proactive manner with an Applicant. *“In assessing the merits of an application for advertisement consent, Officers will seek to work with the Applicant in a positive and proactive manner in seeking solutions to problems arising in relation to dealing with the application”*.

The Appellant believes that the LPA failed in its duties to communicate and cooperate with the Appellant, and did not provide the Appellant with an opportunity to respond to any concerns which the LPA may have had about the proposed advertisement scheme.

The Appellant requests that the Planning Inspectorate should take into account the following information when considering the Appeal.

- 1) The application was submitted to Wrexham County Borough Council on 21/08/20 and the target determination date was allocated for 16/10/20.
- 2) The Appellant was not notified of any issues raised by the application, and when he checked the Council's planning web site, he found that there was no record of any adverse comments or objections being received from members of the public or other Consultees.
- 3) An email was sent to the Planning Officer on 08/10/20 to enquire whether the consultation period had raised any issues. A copy of this has been submitted with copies of other email correspondence as **APPENDIX F**.
- 4) It was also acknowledged that all parties are working under difficult circumstances at the moment. It was therefore suggested that, if the proposed scheme had raised any issues, that the LPA should provide sufficient time for the Appellant to consider and address any concerns prior to the determination of the application. Alternatively

should the LPA need to give the matter further consideration, it was assumed that the LPA would request a time extension.

- 5) In response to the email a reply was received from the Planning Officer which simply enclosed the comments provided by the Conservation Officer.
- 6) The Appellant's Agent prepared a response and intended to send it to the Planning Officer on 13/10/20, however, he received the formal Refusal Decision Notice on the morning of that same day. The Appellant was therefore denied the opportunity to respond to the LPA.
- 7) Although the Refusal Decision Notice was received on 13/10/20, the "*Decision Date*" on that notice was 05/10/20. This obviously means that the application had been determined without consultation, and the decision was made before the Appellant was provided with a copy of the Conservation Officer's comments. Any response to these comments would have been pointless.
- 8) The Appellant checked the Council planning web site on 15/10/20 to see if a copy of the Planning Officer's Delegated Report had been uploaded on the web site, as he had not been supplied copy.
- 9) There is no copy of the Report available for public viewing, however it was also noted that an incorrect Decision Notice has been posted on the web site. As can be seen from **APPENDIX K** the Notice refers to *App. Ref. No. P/2020/0314*.

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

Policy EC7 of the UDP requires any development to preserve and/or enhance the character of the Conservation Area. The details set out in this statement clearly show that the Appeal proposal will **not** impact on any views of the Grosvenor Road Conservation Area, and will **not** fail to preserve the setting of nearby designated historic assets.

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.

15th October 2020