

VIVID OUTDOOR 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/2019/0942

Re: Land at Junction of Pentre Felin and Lea Road, Wrexham, LL13 7NB

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/2019/0942) by Vivid Outdoor Media Ltd ('the Appellant') for the *"removal of an existing 48 sheet advertising billboard and replacement with an internally illuminated 48 sheet advert to support a digital poster"*, on Land at the Junction of Pentre Felin and Lea Road, Wrexham, LL13 7NB ('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, the ***"the level of illumination, the scale of the display and the prominent location, in an area of mixed residential and commercial uses"***. These three elements will be assessed against the determining issue of visual amenity, as follows;

1) VISUAL AMENITY

The Appeal site is not located within a conservation area or an area of special advertisement control.

There are no heritage assets located in proximity to the Appeal site which would be detrimentally affected by the removal of the existing 48-sheet advertisement and the proposed upgrade to a 48-sheet digital advertisement. The Appellant accepts that there are two listed buildings in the vicinity, however, having assessed the setting of these buildings,

which are both located at a sufficient distance from the Appeal site, it could not be reasonably argued that the new 48-sheet digital advertisement would affect their setting and their historical interest. The existing advertisement nor the proposed digital advertisement that would replace it, is viewed directly from either of the listed buildings.

The listed buildings are not viewed as a backdrop to the existing advertisement or the proposed digital advertisement that it is proposed it would replace. Owing to the position of the Appeal site and the listed buildings and the distance between them, the two are seldom seen in the same line of vision nor even in close proximity.

The area has commercial character. There is no significant residential element in the immediate vicinity of the Appeal site so the proposed display would not have any detriment to residential amenity in this location. The existing advertisement and the Appeal site are positioned within a street scene of commercial buildings. Traffic travels through this built up area with development activity and signage on all sides.

It is recognised that the Regulations pre-date the availability of digital screens, and allow Local Planning Authorities (LPAs) to control the display of advertisements only in the interests of visual amenity and public safety.

With the development of digital advertising being a new concept over the last two decades, there was little specific existing guidance or policy available at a national or local level. As a result LPAs and the Outdoor Industry have worked together over recent years to develop policy guidelines to reflect best practice to control the use of digital displays. In January 2011 the Outdoor Media Centre (the industry association representing outdoor media owners) published its Voluntary Code for the control of large roadside digital advertising – (the OMC was later rebranded as Outsmart in September 2015).

Across the UK, some LPAs have adopted supplementary planning guidance (SPGs) to provide specific guidance on the siting of large roadside digital screens. In particular they focus on how such screens can address visual amenity and public safety issues. Some of the most recognised and implemented policy guidelines are set out in documents such as ***“Guidance for Digital Roadside Advertising and Proposed Best Practice (2013)”*** published by Transport for London and ***“City Centre Digital Media Interim Planning Statement”*** published by Nottingham City Council in January 2017.

The Nottingham document states that *“Where large digital screens are sited appropriately, and their content appropriately curated and managed, they have the potential to contribute positively to town and city centre spaces and support local policy objectives such as regeneration, economic development, and community engagement and development”*.

The Transport for London document states that *“static digital advertising is likely to be acceptable in locations where static illuminated advertising exists”*. It is therefore reasonable to conclude that the proposed ‘like for like’ replacement of the display unit at the Appeal site would be acceptable, as the principle of illuminated advertisements on the site has been well established over a long period of time, without complaint. As such, it is also reasonable to conclude that the site’s continued use and its modernisation to allow for the replacement of the timber 48 sheet advertisement with a new display of static digitally produced advertisements on the site, will not be detrimental to visual amenity.

i) The level of illumination

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".

Buildings are listed by the Welsh Government for their special architectural or historic interest, and Listed Buildings policies contain a general presumption in favour of the preservation or enhancement of a listed building and its setting.

For listed buildings, the aim should be to find the best way to protect and enhance their special qualities, retaining them in sustainable use. The continuation or reinstatement of the original use of a listed building is not always the viable or appropriate option. The application of planning and listed building controls recognises the need for flexibility where new uses have to be considered in order to secure a building's survival or provide it with a sound economic future

This was the case with one of the two listed buildings located in the surrounding area of the Appeal site. The Former Island Green Brewery building closed down in the 1970s and fell into dereliction, but was listed as a Grade II listed building in 1981. Although located in a predominantly and historically industrial / commercial area, the building was restored in the late 1990s as part of a large retail development and converted to contain 34 town centre apartments with adjoining courtyard and car parking areas.

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"*.

Part of the industrial area of the former Brewery site was developed in the late 1990s to create the Island Green Shopping Park, which is a well-lit 24/7 retail and commercial development. During re-development the railway station was moved 500 yards west, and the station now sits inside the shopping area.

The character of the surrounding area of the Appeal site is clearly one of mixed use with the residential development dominated by the large retail and commercial developments. As stated in the planning guidance in Paragraph A7 of TAN 7, this is a typical area where *"poster advertising may be acceptable when it is carefully related to the scale of surrounding buildings"*.

It does not automatically follow that an illuminated advertisement would have a detrimental impact on residential amenity in this area. As already accepted, the Appeal site is located in 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. The Appeal proposal does not represent a significant incursion in to a residential setting and

does not compromise the amenity of the residents of the small number of residential properties in the surrounding area.

The listed building of the Former Island Green Brewery is in close proximity to other sources of illumination from street lighting, commercial signage and vehicle lighting which emit a considerably higher intensity of light than the static illumination contained in the Appeal proposal.

Illuminated signage and advertisements in a location such as the Appeal site is not unusual and is exactly the kind of place where one would expect to find them. It is therefore in line with the policy guidelines relating to the location of advertisements in commercial and mixed use areas.

A selection of site photos have been submitted with the Appeal statement as **APPENDIX C to H**. These photos show views looking towards and away from the listed building of the Former Island Green Brewery in the context of the large well-lit retail development. Some of the photos are taken in daylight to show the location of the listed building within the retail development, and the night time photos show how the level of illumination in the surrounding area is more intrusive than the proposed digital display would be.

The proposed display would be digitally illuminated as opposed to the overhead illumination of the existing advertisement. However, the light does not radiate in the same way as either externally illuminated displays or traditional backlight units. In this regard the illumination only highlights the matter contained within the display.

The Appellant disputes the Council's claim that the digital advertising display "*would detract from the amenities of the area and the setting of nearby listed buildings by level of illumination*". It is acknowledged that the proposed advertising will be introducing digital illumination but the impact of this depends entirely on the level at which this is set. It is entirely possible to set a level that matches the existing display during the daytime. At night time provided a low level of luminance is set, the impact would be marginal in an area that is already reasonably well lit. The illuminated display would be regulated by ambient light sensors and internal clocks to ensure advertisements are not overly prominent or obtrusive.

Any concerns that the Council may have regarding the digital form of illumination would be addressed by granting consent subject to the appropriate conditions outlined in the planning statement which was submitted with the application. These conditions are now widely accepted by Councils across the country as standard for the control of digital displays.

The Council has not provided any evidence or justification to suggest why a digital static illuminated advertisement would be so significantly different and could have any greater impact on amenity than the existing externally illuminated static advertisement.

A copy document has been submitted with the Appeal as **APPENDIX A**, which provides details of copy email correspondence with the Council's Planning Officer, and shows how the Council made an early determination of the application without informing the Appellant of any concerns they may have on the impact of the level of illumination. This prevented the opportunity to enter into any constructive dialogue to overcome these amenity concerns by suggesting the additional conditions.

This indicates there was an 'in-principle' objection to the upgrade of the existing advertisement to digital as the Council effectively stated that no conditions would make the scheme acceptable even if these would materially change the level of impact. This is unreasonable as the illumination of the proposed digital advertisement can be controlled in

such a way that there would be little discernible difference between the static digital advertisements and the same printed advertisement.

The Appellant feels that the Council have failed to consider the long history of illuminated advertising on the site, and the fact that Industry research has shown that there is no material effect on visual amenity and highway safety when installing illuminated displays, provided that the images are only “static poster like displays”, and levels of illumination are controlled and monitored.

The Appeal proposal would mirror the consented digital displays at other locations across the UK, some of which are located in conservation areas or in close proximity to listed buildings. The proposed digital display would exhibit the same operational characteristics of digital illumination and static images, which have been accepted at other consented locations.

Reference was made in the planning statement to a recent planning submission submitted by the Appellant where express consent granted by a neighbouring Council. Whilst not a decisive factor in its own right, it is considered to be relevant to the Appeal proposal. The decision by Denbighshire County Council relates to the replacement of an existing 48 sheet advertisement with 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 and a site photo have been submitted with the Appeal as **APPENDIX I** and **APPENDIX J**.

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. 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 proposed upgrade of the historic 48-sheet advertisement and its replacement with a 48-sheet 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.

ii) The scale of the display

There has been 1 x 48 sheet illuminated advertisement hoarding displayed at the Appeal site since 1994, when express consent was originally granted (**App.Ref.No.22170 WRO dated 11/04/1994**). A copy of the Planning Officer’s Report has been submitted with the Appeal as support documents **APPENDIX K** and **APPENDIX L**.

In the Report the Planning Officer concluded that “*the hoarding constitutes a good quality design of appropriate scale for the locality. I therefore feel it would be both unreasonable and unsustainable to withhold consent for this scheme. As stated, the proposal includes floodlighting, and I feel this aspect is acceptable, perhaps even desirable, to increase general lighting in this locality, subject to the usual safeguards on brightness*”.

The site has therefore been used for the display of 48 sheet advertisements for over 25 years without any complaints or objections, and it is not considered to be detrimental to visual amenity or public safety. At the time of granting consent, the Council acknowledged

that “*the general characteristic of the locality was largely commercial / industrial*”, and it has been proved that a display of the size proposed in the Appeal can comfortably assimilate into the street scene. During the time that the advertising site has been in operation, the character of the locality has remained consistent, although the strong commercial aspect of the area was further emphasised in the late 1990s, with the development of the Island Green Shopping Park.

It is not considered that the size of the proposed display is materially significant in the context of the scale of the surrounding built development. The existing advertisement would be replaced by a display unit of similar dimensions, landscape orientation, and static illuminated images. The dimensions of 48 sheet digital advertisements are standard with a display area of 6m wide x 3m high, and these have been accepted at many similar locations across the UK.

48 sheet digital advertisements are now a common sight on arterial roads in major towns and cities and as such, are not an “unusual” feature in the street scene of commercial and industrial areas. It is considered that the proposed display would not be an unduly prominent or obtrusive feature by reason of its size. Policy guidelines clearly state that in commercial localities ‘*some poster advertising may be acceptable when it is carefully related to the size and scale of surrounding buildings*’.

The only real differences between the existing and proposed advertisement displays are the introduction of digital illumination and the frequency that an advert changes via a digital display. The Appellant considers that these differences are not unacceptable differences from an amenity perspective. Surely this can only be relevant if the level of illumination is too high, and it has already been set out in this statement how the level of illumination can be controlled by conditions.

The size and position of the proposed advertisement display would replicate the existing advertisement hoarding, which sets some degree of precedent in terms of scale and siting. It is therefore difficult to understand why the Council can suggest that its size is then included as a reason for refusal.

The Appeal proposal seeks to improve both the quality of the advertisements and their contribution to the street scene with the introduction of digital technology, which offers many practical and sustainable benefits: reduced energy consumption; easy recycling of component parts; and a vastly reduced number of maintenance visits to site.

iii) **The prominent location in an area of mixed residential and commercial uses**

Clearly owing to the historical nature of the site, and that it has been used for the display of advertisements of similar characteristics without any complaints or objection, the proposed display is not considered to be detrimental to visual amenity. The setting is considered as entirely appropriate for illuminated roadside advertising in an environment which is highway dominated and predominantly commercial in character.

The Appellant refutes the Council’s claim that the proposed display would be more prominent or noticeable than the existing hoarding, particularly as it replicates the existing advertisement’s dimensions and landscape format. Accordingly, the proposed display would not be visually dominant nor more visually prominent than the existing hoarding, ensuring that it does not result in detrimental visual amenity impacts.

It appears that the Council are suggesting that the introduction of digital illumination to the proposed display would result in the visual prominence suggested.

It is acknowledged that TAN 7 allows for a Local Planning Authority to disregard advertisements within a wider area in assessing the general characteristics of an area, however, it should not disregard any consideration of an existing advertising sign within an application/appeal site. Therefore, the existing signage (which has been in place for over 25 years) should be considered in detail and given due weight in when assessing the character of the area and the determination of an application/appeal.

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 is viewed against the backdrop of the premises of United Carpets and Beds (which is clearly shown on the site photo submitted with the Appeal as **APPENDIX B**). This property is a large rectangular building which is totally utilitarian and constructed of brick with a metal cladding frontage. It has no architectural features and the frontage displays large illuminated signage.

The scale of the proposed display would replicate the existing advertising hoarding’s dimensions within the Appeal Site, and so it would not be overbearing within the context of the immediate area, and would not detract from the two “*nearby listed buildings*”.

Reference was made earlier to one of the two listed buildings at the Former Island Green Brewery, which has been redeveloped as a complex of town centre apartments at the heart of the large retail development. It has been outlined how the character of the surrounding area of the Appeal site is clearly one of mixed use with the residential development dominated by the large retail and commercial developments. As stated in the planning guidance in Paragraph A7 of TAN 7, this is a typical area where “*poster advertising may be acceptable when it is carefully related to the scale of surrounding buildings*”.

The second listed building is that of the Former Old Three Tuns Public House, which is located at the junction of Well Place and Brewery Place, adjacent to the entrance to the Former Island Green Brewery, and facing down Brook Street. The building is now occupied by the Railway Sports and Social Club, and was designated a Grade II listed building in 1994, which was the same year that the Appeal site was granted consent for 1 x 48 sheet advertisement display. Although not located in a conservation area, both sites have been accepted as integral parts of the street scene and the commercial activities of the surrounding area.

Two site photos have been submitted as support documents with the Appeal. **APPENDIX M** shows the long view of the Appeal site as traffic approaches from the east up Brook Street, with the Appeal site located approximately 60 metres on the opposite side of the road from the listed building. The site photo clearly shows that, due to their relative positions and the distance between them, the Appeal site and the listed building are seldom seen together. Few views of the principal front elevation of the listed building would include a view of the Appeal site. Given this, and the visual severance caused by the intervening busy main road and the wide open spaces of the surrounding area, the proposed display would not detract from the listed building’s architectural or historic interest to any significant degree.

Likewise, the views from the listed building looking across Brook Street towards the Appeal site would not compromise the amenity of the occupants of the Railway Sports and Social Club. As it is clearly shown on the site photo submitted as **APPENDIX N**, there is minimal view of the Appeal site from the licensed club premises.

It is considered that the views of both listed buildings in the surrounding area would not be compromised by the proposed digital display.

Both listed buildings in this area of mixed commercial and residential use have not been harmed in the past by the existing illuminated advertisement, and it is considered that they will not be by the new static digital display. Neither the existing nor the new advertisement cause harm to the occupiers of the surrounding properties. The continued use of the advertisement site is therefore not in question, and the sole determining issue to be considered with this Appeal is the introduction of the digital form of display, which can be controlled by conditions.

CONCLUSION

The Appellant does not believe that the LPA can reasonably argue or has demonstrated that the upgrade of the existing 48-sheet externally illuminated advertisement to a 48-sheet digital advertisement would cause harm to amenity. The fact that the advertisements would be displayed digitally on the proposed new 48-sheet advertisement rather than the printed poster displays on the existing 48-sheet it would replace, would have very little impact in the street scene and to the character of the area. Any concerns over the intensity of the digital illumination can be addressed by the imposition of suitable conditions to control the levels of illumination during daylight and night-time hours of operation and are easily controlled by the technology the digital display unit incorporates. 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.

20th March 2020