

Planning and Environmental Appeals Division

Appeal Decision Notice

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Decision by Stuart West, a Reporter appointed by the Scottish Ministers

- Advertisement appeal reference: ADA-270-2000
- Site address: 7 Eastfield Way, Inverness, IV2 7GD
- Appeal by Wren Kitchens Ltd against the decision by Highland Council
- Application for advertisement consent 20/00880/ADV refused by notice dated 12 June 2020
- The advertisement proposed: Erection of a sign
- Date of site visit by Reporter: 19 October 2020

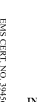
Date of appeal decision: 25 November 2020

Decision

I allow the appeal and grant advertisement consent, subject to the standard conditions for the display of advertisements that are specified in Part 1 of Schedule 1 to The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 and to the additional conditions set out at the end of this notice.

Reasoning

1. Regulation 4(1) of the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 limits the exercise of the powers of control of advertisements solely to the interests of amenity and public safety, and these matters are elaborated in regulation 4(2). The council does not raise any public safety concerns. Accordingly, based on my site inspection and the written submissions, I consider that the determining issue in this appeal is whether the display of the advertisement would be contrary to the interests of amenity.
2. The council's four reasons for refusal refer to local development plan policies and the associated Shopfront Design Guide. As this is not a planning appeal the criterion in Section 25 of the Town and Country Planning (Scotland) Act 1997 regarding the primacy of the development plan does not apply. The development plan policies and planning guidance referred to are therefore relevant only to the extent that they may assist the assessment of the proposal's impact on amenity.
3. The proposal is for a 8160mm x 1920mm LED digital display, housed within a black aluminium case. The sign would be fixed to the principal elevation of the retail unit approximately 5.5m above ground level. The appeal site is one of a row of modern units, typical of many similar out of town retail parks. The building is formed by portal steel frame construction with a brick skin to the lower part of the unit and metal sheeting above.



Decorative, projecting steel canopies, which are fixed to the bottom sections of the metal cladding, are positioned above the windows and doors of each of the units.

4. The retail units are positioned in long terraced rows to the west and north of a substantial dedicated car park, with a cinema, gym and fast food establishments to the east, and a supermarket and its associated petrol station to the south. A footway is situated between the retail units and the car park, which has capacity for several hundred cars.

5. The vibrant retail park is of a commercial scale with wide open areas that are lit by pole-mounted floodlights and the internal illumination from the commercial units themselves. Of particular note is the large, internally-lit orange signage mounted on the principal elevation of the cinema directly opposite the appeal site, and upon a scaffold gantry projecting from the top of the building.

6. The council has stated that the proposed advertisement would not accord with the basic principles of the Shopfront Design Guide Planning Guidance (SDGPG). The SDGPG has a heavy focus on traditional shopfronts and on signage in built-up areas with some generic key principles listed as being applicable to shopfronts forming part of new developments.

7. The SDGPG key principles relevant to the proposal before me require that new shopfronts:

- be distinctly of its time and avoid pastiche;
- make use of high quality materials; and
- use colour but be sensitive to the predominant palette and character.

8. I am satisfied that the sign would be clearly of its time and would make use of high quality materials. The retail units are uniform in their general appearance with buff bricks, pale grey cladding and white canopies. The signage differs from unit to unit, with a variety of sizes, shapes and colours that reflect each individual store's branding. I am satisfied that the LED screen with a black surround would respond positively to the neutral background to which it will be fixed. I give consideration to the character of the surrounding area below.

9. The first reason for refusal in the council decision notice stated that the over-sized nature of the LED screen, in addition to its scale and positioning would dominate the frontage of the unit. I do not agree. The advert would be comparable in scale and position with the sign which it would replace and with the existing signage on the other retail units in the retail park. The appellant has argued that the proposed sign would occupy approximately 8.5% of the frontage of the unit and I am satisfied that this is proportionate to the scale of the building.

10. It is proposed that the sign will show a series of video clips on a repeating cycle. The clips would relate to the products on sale within the premises. The council states that the potential range of advertisements on the LED screen would result in a complicated and cluttered fascia. However, I do not find that a fixed sign, which shows a variety of images on a cycle, moving or otherwise, equates to clutter.

11. The council has stated that the advert would not preserve the established modern character of the retail park as it would introduce a significant change to the streetscape that would be particularly prominent during the hours of darkness. The council argues that this would lead to further unnecessary and distracting visual intrusion and would be significantly detrimental to local character.

12. The Inverness Retail and Business Park within which the appeal site is situated is a dedicated, purpose-built commercial destination. There are no residential properties within the surrounding area and the only access for vehicular traffic is via Eastfield Way, which links the business park to the A96. Visitors to the retail element of the park are travelling specifically for commercial purposes, either to shop, dine, visit the fitness centre or attend the cinema.

13. During my site inspection I found the park to be a modern, commercial destination with a different character and ambience to a traditional streetscape. I do not find generic principles for shopfronts or signage to be appropriate for such a destination. The scale of the buildings and the open nature of the retail park is such that large signage and illumination is a common feature that people would expect when visiting. This is exemplified particularly in the cinema and restaurants that are presently in situ.

14. I strongly disagree that the advert would not preserve the established modern character of the retail park. I find that the proposed development would reinforce the existing sense of place. The sign would introduce a change into the environment but I am satisfied that its modern, high-tech nature would complement the wider park by adding visual stimulus to a commercial area that is already characterised by eye-catching advertisements and branding.

15. In its final reason for refusal, the council argued that the proposal would introduce significant animated ambient light to the retail park without demonstrating that such light pollution can be avoided or mitigated. I am satisfied that the levels of illumination, and restrictions on the hours which the sign may be operational, could be effectively managed through conditions of consent to ensure that there are no unacceptable impacts on amenity as a result of light pollution.

16. In response to the appeal the council has raised concerns that the proposed advertisement would introduce an alien feature into an established retail park. The council argues that, owing to the scale of the park and the levels of footfall it attracts, its public space, character and visual amenity should be safeguarded.

17. I am satisfied that the expectations of individuals visiting the park is for a retail or leisure experience appropriate to the scale and nature of the park. Owing to the lack of sensitive receptors in the area, such as domestic properties or heritage sites, the park is characterised by large-scale, bold buildings that are well lit. I do not find that the park's public space, character or visual amenity will be harmed by the advertisement proposed.

18. I am satisfied that in a dedicated retail and leisure setting, modern moving images can be easily accommodated by the environment. I find that the modern, animated display would complement the character of the retail park but I appreciate that it is imperative that the technology functions appropriately to avoid adverse impacts on amenity. I am satisfied that a condition of consent could be used to ensure that the sign is deactivated in the event

of technical errors or glitches in the animation to avoid any such adverse impacts on amenity.

19. Given that the sign would read as part of the host building I find that to avoid confusion, or any adverse impacts on amenity, it is important that only advertisements relevant to the business operating from the premises should be displayed. Furthermore, video clips should have no audio element to avoid confusion arising with parties unable to view the signage from a given vantage point. I am satisfied that such measures could be controlled by conditions of consent.

20. Taking all of these points into account I find that, subject to the conditions below, the sign is not harmful to amenity in its proposed location within the dedicated retail park.

21. The council has requested a series of additional site-specific conditions to the standard ones in Part 1 of Schedule 1 of the regulations in the event of consent being granted. I have adopted these subject to minor editing and the exclusion of the condition requiring the removal of the unit if it is not operated for a given period as the permission is time-limited by virtue of Regulation 18. Should the planning authority deem it expedient to require the removal of the advertisement after the standard 5 year period, this is possible through Regulation 19(1).

22. I have considered all other matters raised but have found none to justify altering my decision.

Stuart West
Reporter

Additional conditions

1. The advertisement unit hereby granted consent shall only be used to display advertisements wholly related to the retail unit that it is attached to and for no other purpose or use.

Reason: In the interests of visual amenity.

2. There will be no audio element to the advertisements displayed on the unit hereby approved.

Reason: In the interest of protecting amenity.

3. Prior to installation of the advertisement unit hereby granted consent, the intensity of the illumination (cd/sqm) and details of any light sensors designed to adjust brightness to changes in ambient light levels, shall be submitted to and subsequently be approved in writing by the Planning Authority. Thereafter, the development shall be completed and maintained in accordance with the approved details.

Reason: In the interests of visual amenity and to avoid unnecessary light pollution.

4. The advertisement unit hereby granted consent shall be switched off when the retail unit to which it relates is closed to visiting members of the public.

Reason: In the interests of visual amenity.

5. The minimum display time for each advertisement shall be 10 seconds.

Reason: In the interests of visual amenity.

6. Unless otherwise agreed in writing by the planning authority, the advertising unit hereby approved shall have a default mechanism to freeze to a black screen in the event of any malfunction.

Reason: In the interests of visual amenity and to any avoid adverse visual impact on public spaces caused by potential glitches to the animation or flashing error messages or pixilation.