
Appeal Decision

Site visit made on 11 October 2016

by J C Clarke BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 November 2016

Appeal Ref: APP/T5150/H/16/3153652

Advertising Rights Adjacent to 327 Edgware Road, Cricklewood, London NW2 6JP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a failure to give notice within the prescribed period of a decision on an application for express consent to display an advertisement.
 - The appeal is made by Mr Ben Porte, Insite Poster Properties against the Council of the London Borough of Brent.
 - The application Ref 16/0957 is dated 4 March 2016. The advertisement proposed is Replacement of existing single sided internally illuminated backlit 48 sheet advertising unit with new internally illuminated digital 48 sheet advertising unit.
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Decision

1. The appeal is allowed and express consent is granted for the display of the new internally illuminated digital 48 sheet advertising unit as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:-
 - 1) The intensity of the illumination of the advertising unit permitted by this consent shall be no greater than 300 candelas per square metre.
 - 2) The advertisement display within the unit hereby permitted shall not change more than 5 times per minute. No message sequencing for any product shall take place and the unit shall not include features or equipment which would allow interactive messages or advertisements to be displayed.
 - 3) No special effects (including the use of noise, smell, smoke, animation, flashing, scrolling, or three-dimensional, intermittent or video images) shall be used during the time that any message is displayed.
 - 4) The interval between successive displays shall be 0.1 seconds or less, during which the complete screen shall change and there shall be no fading, swiping or other animated transitional effects used between successive displays. The display will include a mechanism to freeze the image in the event of a malfunction.
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Procedural Matters

2. As the Council has not issued a refusal notice, the reference number for the application in the header to this decision is based on that given in the Council's list of persons whom it notified of the appeal.
3. Under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the 'Advertisement Regulations'), control of advertisements can only be exercised in the interests of amenity and public safety. The Council has not stated whether it has any objections in relation to either of these matters or drawn any relevant development plan or other policies to my attention. Given these circumstances I have based my main issue on my own assessment of the proposal and on the fact that the Inspector's decision in the earlier appeal¹, relating to a refusal of Express Consent for 2 display units at the same site, each of a similar design to the single unit now proposed, did not raise any public safety issues.

Main Issue

4. The main issue is the effect of the proposed advertisement on the appearance of the street scene.

Reasons

5. The appeal site is prominently located next to Edgware Road. Although there are residential streets and some flats on upper floors of buildings nearby, the land uses alongside Edgware Road near to the appeal site are mainly commercial in nature. The area also contains many existing advertisements, some of which are of a similar or larger size to that proposed and many of which, including one which has been recently granted consent at 372 Edgware Road, are illuminated.
6. The new unit would measure 6 metres in width by 3 metres in height and its top would be over 5 metres above ground level. The advertising on it would be seen over a considerable distance along Edgware Road to the north west of the site and the rear of the unit would be prominently seen in views from the south east.
7. Set against these points, however, the proposed advertising unit would replace, and be no wider or higher than, an existing internally illuminated unit in an identical location. Furthermore, the Appellant has stated that the maximum luminance level of the proposed unit would be lower than that of the existing unit, and the Council has not submitted any evidence to the contrary.
8. Whilst the existing unit was not in operation at the time of my site visit, according to evidence submitted by the Appellant it has been present on site since 1998. The Appellant has stated that the existing advertising unit has deemed consent under the Advertisement Regulations due to the length of time that it has been present on the site. There is no evidence before me which suggests otherwise. Whilst the Council has powers to serve a discontinuance notice against many types of advertisement which have deemed consent, there is no indication that it intends to do so in this case. In these circumstances the presence of the existing advertising unit acts as an important factor in favour of the appeal proposal.

¹ reference APP/T5150/Z/15/3134739

9. An appeal related to a previous proposal to replace the existing unit with 2 new internally illuminated units was dismissed by an Inspector under reference APP/T5150/Z/15/3134739, on the grounds that the proposal would have resulted in an unacceptable level of clutter in the street scene. However, whereas that proposal included the erection of 2 units, each of similar size and height to the existing structure, the current appeal proposal is solely to replace the current unit with another single unit.
10. As a result of these points and the mainly commercial nature of this part of Edgware Road I do not consider that the appeal proposal would have an unacceptable effect on the appearance of the street scene.
11. I also do not consider that the proposed advertisement would cause any substantive effects on public safety for example in relation to distraction to drivers on Edgware Road or visibility.
12. The Appellant has submitted a list of suggested conditions. Of these, conditions A to F inclusive replicate the standard time limit and conditions set by the Advertisement Regulations. Suggested conditions G to J cover matters about which additional conditions are needed and I have used these as the basis for my additional conditions 1) to 4).
13. My additional condition 1) would limit the intensity of illumination of the proposed unit in the interests of visual amenity and to prevent distraction to highway users in the interests of highway safety. The level of illumination stated in my condition 1 corresponds with the maximum recommended in a suburban location of this type by the Institute of Lighting Professionals². My additional conditions 2) to 4) inclusive would respectively: control the frequency with which the display would change; prohibit the use of special effects; and control the length of the interval between successive displays. Additional conditions 2) to 4) are all needed to prevent distraction to highway users in the interests of public safety.
14. For the reasons which are set out above, I allow the appeal and grant express consent subject to conditions.

Jonathan Clarke

INSPECTOR

² 'Professional Lighting Guide PLG05 The Brightness of Illuminated Advertisements' Institute of Lighting Professionals 2014, page 24, table 4