The Planning Inspectorate

Appeal Decision

Site visit made on 23 November 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 15th December 2016

Appeal Ref: APP/D1835/H/16/3158062
Lidl UK GmbH, Newtown Road, Worcester WR5 1HG

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against conditions imposed when granting express consent.
- The appeal is made by Lidl UK GmbH against the decision of Worcester City Council.
- The application Ref A16G0024 dated 13 May 2016, was granted express consent on 15 July 2016 subject to conditions.
- The express consent to display advertisements relates to proposed replacement of an internally illuminated totem sign.
- The condition in dispute is No 3 which states that: "*FoNotwithstanding [sic] the submitted details the totem pole sign shall not exceed 5 metres in height above existing ground level in accordance and shall not exceed 200 cd/m with details to be agreed in writing by the local planning authority"*.
- The reason given for the condition is: *"To maintain the visual amenity of the surrounding development in accordance with policy SWDP21 and the aims and objectives of the National Planning Policy Framework".*

Decision

1. The appeal is allowed and the advertisement consent Ref A16G0024 for the proposed replacement of an internally illuminated totem sign at Lidl UK GmbH, Newtown Road, Worcester WR5 1HG granted on 15 July 2016 by Worcester City Council, is varied, by deleting condition No 3 and substituting for it the following condition:

   1) Notwithstanding condition 1, the totem sign shall not exceed 6 metres in height above existing ground level and the intensity of the illumination of the sign permitted by this consent shall be no greater than 520 cd/m^2.

Background and Main Issue

2. The Regulations, the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) all make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. The Council has drawn my attention to Policy SWDP21 of the South Worcestershire Development Plan (SWDP), adopted February 2016. I have taken the policy into account as a material consideration, in so far as it relates to amenity and public safety.

3. Prior to the Council making its decision, the appellant submitted amended drawings which reduced the height of the totem sign from approximately 7.5m to approaching 6m in height and also altered other proportions of the sign.

I have considered the appeal on the basis of the amended drawings upon which the Council made its decision.

4. The restrictions imposed by condition 3 in limiting the height of the totem sign to a maximum of 5 metres and luminance of the advertisement to no more than 200 candela per square metre (cd/m2) controls the size and level of luminance beyond the details of the specific totem sign for which express consent has been sought. As such the express consent relates to use of the site for the display of an advertisement in a specified manner rather than the display of a particular advertisement or advertisements, as permitted by the Regulations.

5. The appellant has indicated that the height and luminance restriction imposed on the express consent does not allow for the totem sign to be installed as proposed. Consequently, it is requested that condition 3 is either deleted or varied, to enable the totem sign to be installed at the proposed height and level of luminance.

6. The main issue is whether the disputed condition is reasonable and necessary with regard to the effect on amenity, including the character and appearance of the site and its surroundings, and public safety.

Reasons

7. The appeal site comprises an existing supermarket consisting of a large single storey building with an adjacent car park that fronts the northern side of Newtown Road. The character of the immediate surroundings along Newtown Road is mixed, with predominantly commercial premises on the northern side and residential properties in elevated positions on the southern side. Street and car park lighting columns and telegraph poles are a common feature of the locality. A number of existing advertisements to commercial buildings are also visible, including internally illuminated signs associated with the supermarket.

8. The proposed totem sign would replace an existing internally illuminated flag pole sign which is located in an elevated position relative to Newtown Road within the forecourt of the supermarket. The totem sign of approaching 6m in height would consist of an internally illuminated square logo measuring 2.1m by 2.1m with horizontal aluminium panelled sections below with illuminated white lettering.

9. The illumination would be provided by LED strips with average luminance levels ranging from 79.2 cd/m^2 for blue and red segments to 504 cd/m^2 for the yellow segment of the logo. White lettering in the aluminium panels would have an average level of luminance ranging from 120 - 131 cd/m^2. Whilst the submitted plans indicate an approximate undimmed yellow luminance of 580 cd/m^2, more detailed evidence in the form of SAPS calculation measurements provided to this appeal indicate a maximum luminance of 520 cd/m^2. The appellant has indicated that the hours of illumination would be between 0730 - 2300 hours on Mondays to Saturdays and 0930 - 1700 hours on Sundays linked to a Building Management System. However, these hours of illumination are not subject to a condition in the express consent granted and there is no evidence that the existing signage is subject to such limitations.

10. Based upon the evidence before me, the existing flag pole sign was installed in 2004. The sign currently exceeds 5m in height and has an internally

illuminated square logo with approximate luminance levels of coloured segments of 12-15 cd/m^2 for blue, 85 cd/m^2 for red and 550 cd/m^2 for yellow. The Council have indicated that the existing sign is unauthorised as it exceeds the maximum height of 5m of an express consent previously granted in 2004.

11. However, based upon an installation date of 2004, the existing sign could benefit from deemed consent under Class 13 in Schedule 3 of the Regulations relating to sites used for the preceding ten years for the display of advertisements without express consent. Furthermore, there is no evidence before me that a discontinuance notice has been served relating to the flag pole sign to remedy an effect on the amenity of the locality or public safety. In such circumstances the presence of the existing sign constitutes a fallback position to which I attribute significant weight.

12. Policy SWDP21 of the SWDP indicates that illuminated signage will only be permitted where lighting is unobtrusive or not considered to be harmful to the character and appearance of the site and its surroundings. Supplementary to this, the PPG[1] identifies that "amenity" is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement.

13. The use of the site to display a large illuminated advertisement is well established and the totem sign would be viewed in the context of a busy and well lit thoroughfare containing commercial activity, including other illuminated signage. The totem sign would be of a clear and coherent design which reflects the commercial setting of the northern side of Newtown Road, existing signage to the front elevation of the supermarket and car parking forecourt, and the purpose of drawing attention to the business. Although the illuminated square logo consists of bright colours, it would be similar in design, scale and illumination to the square logo on the existing flag pole sign. There is also a similar square logo sign on the front elevation of the supermarket. I, therefore, consider that the design of the totem sign would not result in an obtrusive, overly dominant or harmful effect upon the character and appearance of the site and its surroundings.

14. In granting express consent, the Council considered that a 5m high totem sign would be acceptable. The proposed height of the totem sign would be less than 1m higher than permitted by the condition. The resultant increase in height of a totem sign would not appear out of place or unduly prominent when viewed in context of taller lighting and telegraph columns, together with established landscaping along the frontage of the car parking forecourt. Furthermore, the increased scale of a totem sign relative to the existing flag pole sign would not appear incongruous in the local setting. I, therefore, consider that the totem sign as proposed would not harm the character of the site and its surroundings.

15. The width of the road provides some separation between the location of the sign and housing opposite. Furthermore, the orientation of the totem sign would result in predominantly oblique views of the illuminated sections from the houses directly opposite. Whilst the proposed illumination of the sign would undoubtedly draw attention to the totem sign, especially at night time,

[1] Advertisements - Paragraph: 079 Reference ID: 18b-079-20140306 (Revision date 06 03 2014)

the surrounding context of existing street and car park lighting would mitigate its impact upon the amenity of neighbouring properties opposite.

16. With regard to the above, the effect of a totem sign of approaching 6m in height and with a maximum luminance of 520 cd/m^2 would not be greater than the established flag pole sign and the existing higher level of luminance that would be replaced. I, therefore, consider that the internally illuminated totem sign would not have an unacceptable impact on the amenity of occupiers of nearby properties.

17. Turning to public safety, Policy SWDP21 of the SWDP states that consent will be granted for outdoor advertisements provided that the display will not impact on public safety. The PPG[2] sets out advertisement considerations affecting public safety on roads, together with the location and main types of advertisement which may cause danger to road users.

18. Newtown Road is a busy main road, with a bus lane and turning refuge forming part of the westbound carriageway, together with double yellow parking restrictions on both sides. The highway has a gentle bend in both a western and eastern directions which limits the visibility of the location of the sign from distance views. However, as the sign would be located close to a junction with an access providing entrance to and exit from both the supermarket car park and a medical centre car park it does consist of a location identified in the PPG as more likely to affect public safety. Furthermore, internally illuminated signs, including those which are static and utilise LED technology as proposed, are identified in the PPG as signs which based on size and brightness could result in glare and dazzle, or distract road users.

19. Notwithstanding the above, the totem sign would be on the northern side of Newtown Road within the forecourt of a commercial premises where other illuminated signs are currently present, comprises a business sign and is not on a skyline. These are circumstances where the PPG indicates that there are less likely to be road safety problems. In addition, the totem sign given its set back position within the car park forecourt and the orientation of Newtown Road would not obstruct or impair existing sightlines at the junction or traffic signs or signals, or be an obstruction for pedestrians.

20. There is no evidence before me that the presence of an existing sign of similar height and illumination has resulted in highway safety concerns or caused accidents. Furthermore, the Worcestershire County Council Highways Partnership Unit offered no objection to the proposed signage. Consequently, to my mind the totem sign as proposed would not be likely to command undue attention, so as to distract the attention of drivers and pedestrians taking the appropriate level of care as they approached or negotiated the nearby junction. I, therefore, consider that the sign would not have a harmful impact on public safety.

21. I conclude that the disputed condition is not reasonable and necessary with regard to the effect on amenity, including the character and appearance of the site and its surroundings, and public safety. However, a condition that the maximum luminance of the sign would not exceed 520 cd/m^2 is necessary in the interest of certainty and to ensure that the totem sign would have no

[2] Advertisements - Paragraph: 067 Reference ID: 18b-067-20140306 (Revision date 06 03 2014) & Advertisements - Paragraph: 068 Reference ID: 18b-068-20140306 (Revision date 06 03 2014)

greater impact than the existing flag pole sign on amenity, including the living conditions of occupiers of neighbouring properties opposite. Such a condition would ensure that the development complies with Policy SWDP21 of the SWDP and the Framework which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

22. Specification of the maximum height of 6m of the totem sign is also necessary in the interest of certainty in terms of the express consent granted given that revised plans were submitted as part of the application. This is noting that condition 1 of the express consent granted under Ref A16G0024 requires complete accordance with the submitted plans, rather than approved plans, except where otherwise stipulated in the conditions.

23. I have considered the other conditions attached to the express consent but there is no evidence before me that leads me to conclude that it is necessary to vary any of those. My decision alters the existing express consent that has been granted and should be read in conjunction with it.

Conclusion

24. I have concluded that a condition to control the type of signage displayed and relative to the advertisement for which express consent is sought is only necessary in the interest of amenity in so far as the height and illumination sought by the appellant. I will therefore replace the condition subject to this appeal with one that restricts the illumination to the level of luminance and height that is proposed and supported by evidence provided to this appeal. The replacement condition consists of amended wording that also resolves typographical errors within the original condition.

25. For the reasons given above, I conclude that the appeal should succeed and that the express consent should be varied as set out in the formal decision.

Gareth Wildgoose

INSPECTOR