
Appeal Decision

Site visit made on 12 January 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 20 January 2017

Appeal Ref: APP/B4215/2/16/3157805

Corner of Gateway House, Piccadilly Station Approach, Manchester M1 2GH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Ms Louise Evans of LaSalle Investment Management against the decision of Manchester City Council.
 - The application Ref 112306/AOH/2016/C2, dated 25 May 2016, was refused by notice dated 27 July 2016.
 - The advertisement proposed is the replacement of an existing 4m x 18m digital display with a 5m x 7m digital display with architectural structure.
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Decision

1. The appeal is allowed and express consent is granted for the replacement of an existing 4m x 18m digital display with a 5m x 7m digital display with architectural structure 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 development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan 3200/PP/01; Site Plan 3200/PP/02; visibility splay 3200/PP/03; A-A Long Elevation 3200/PP/04; A-A elevation 3200/PP/05; B-B Long Elevation 3200/PP/06; BB Elevation 3200/PP/07; CC Section 3200/PP/08; Specification Sheet 1 3200/PP/09; Design Sheet 3200/PP/10; GGI including proposed building extension 3200/PP/11 and GGI including proposed building extension 3200/PP/12.
 - 2) The advertisement shall only operate under the following controls:
 - (a) During the hours of darkness the illumination level shall be set at a maximum of 300cd/m² and as light levels increase throughout the day, the light sensor shall increase the brightness of the screen to maintain a maximum of 300cd/m² above the ambient light level. At no time shall the display be illuminated by more than 300 cd/m² above ambient light levels.
 - (b) No single advertisement shall be displayed for less than 10 seconds and successive images shall not be changed more frequently than once every 10 seconds.
 - (c) The transition between successive advertisements shall be less than 10ms.
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- (d) The display shall at all times maintain a safety feature that will turn the screen off (ie shows a black screen) in the event that the display experiences a malfunction or error.
- (e) No individual advertisements displayed on the LED panel shall contain any images that resemble road signs, traffic lights or traffic matrix signs.

Main Issue

- 2. The main issue is the effect of proposal upon the amenity of the area including the living conditions of the occupiers of the hotel which is opposite the site.

Reasons

Site and proposal

- 3. The appeal site relates to the corner of Gateway House, a nine storey commercial building, located on the corner of Ducie Street and Station Approach. It is located within Manchester City Centre, is in very close proximity to Piccadilly Railway Station and is surrounded by high density multi-storey buildings. There is an existing digital tower on the corner of the building which measures 4 m x 18 m and which has been in situ since the late 1990's.
- 4. It is proposed to replace the existing digital tower with a curved digital advertising screen measuring 5 m x 7 m mounted on a support frame. An identical screen and support frame was approved by the Council in February 2016 (Ref 111023/AOH/2016/C2), but this is the subject of condition No 3 which prohibits moving images, and condition No 4 which seeks to limit when the advertisement can be used.

Amenity

- 5. The Council has already approved the same advertisement in February 2016. Furthermore, the proposed screen would be smaller than the existing screen on the site and its curved design would assimilate better into the wider environment. Therefore, I consider that in design terms there would be some amenity benefits arising out of allowing this appeal.
- 6. I have carefully considered the position of the proposed digital advertising screen and its juxtaposition with surrounding buildings including the Malmaison Hotel and the Double Tree Hotel. I note the representations made by the owners of these hotels and in particular comments made about illumination and moving images. However, the existing digital screen is bright all the time and there have been moving images from this advertisement for many years. I have not been made aware of any specific complaints about the existing advertisement.
- 7. The appellant has submitted a light pollution assessment prepared by LAPD Lighting Design which uses guidance from the Institute of Lighting Professionals. This demonstrates that if the levels of illumination is kept to within the ILP limits (this is the case as there would be a maximum of 300 cd/m² between dusk and dawn) material harm would not be caused to the living conditions of the occupiers of any of the hotels. I have no reason to doubt this conclusion.

8. In terms of the effects of illumination, the existing advertisement cannot be ignored. This is brighter than what is proposed during the hours of darkness, and, in this regard, the proposal would not therefore cause harm to the amenity currently enjoyed by the occupiers of any of the surrounding hotels. I acknowledge that in visual terms the digital screen would be more apparent at night. However, this is the case now, and I can see no reason why the occupiers of the hotel rooms would not draw curtains/blinds during this time. I am satisfied that this would ensure that the screen did not have a disturbing effect during the periods when occupiers of the hotel rooms wanted to sleep.
9. There are no restrictions in place in terms of using the existing digital screen for motion images. I have not been made aware of any historic complaints from the occupiers/owners of the surrounding buildings about the use of motion images from the existing digital screen. Indeed, I have not been provided with any compelling evidence to demonstrate why it would not be acceptable to continue having moving images from the appeal site. I agree that a planning condition relating to the sequence/timing of adverts would be necessary, but this relates to matters of highway safety, rather than to matters of amenity.
10. For the reasons outlined above, I conclude that it would not be necessary to impose restrictions in respect of when the digital screen could be used, and the continued use of moving images from the appeal site would not have a detrimental impact upon the amenity of the area or the living conditions of the occupiers of any of the hotels/surrounding buildings. Furthermore, in design terms the proposal would represent an improvement on what exists now. Therefore, the proposed advertisement would be acceptable in amenity terms and would accord with the amenity aims of the National Planning Policy Framework; Policies SP1 and DM1 of Manchester's Local Development Framework Core Strategy Development Plan Document 2012 and saved Policies DC.15.1 and DC15.2 of the Unitary Development Plan for the City of Manchester 1995. Neither the Highway Authority, nor the Council, has raised an objection to the proposal in public safety terms, and I have no reason to disagree with this view.

Conditions

11. I have considered the Council's suggested conditions. I asked the appellant to comment on the wording of some of the suggested conditions, but a response was not forthcoming. Suggested condition No 02 is neither enforceable nor necessary in view of other conditions which I shall impose. Suggested condition No 03 would seek to restrict use of the LED screen to the hours of 07.00 and 23.00, but for the reasons outlined above this would not be reasonable or necessary.
12. The Council's suggested condition No 04 relates to the extent of illumination, the frequency of the image change and the provision of a feature which turns the screen fully off if there is malfunction or error. The Highway Authority has suggested a similar condition. In the interests of public safety, I have incorporated the wording of both of the suggested conditions into one revised and necessary condition, although I do not consider that the Council has provided any reasonable evidence to indicate why only static 'poster like' images should be displayed: there are no such controls in place in respect of the existing advertisement. I have not therefore included this wording.

13. The Council has suggested a condition which requires that the advertisement is removed in the event that it is no longer required. I do not consider that this is an enforceable condition, as it is not clear at what stage one would argue that the advertisement was no longer required. In any event, the advertisement (including its architectural structure) would not, subject to the imposition of other planning conditions, cause material harm to matters of public safety or amenity, and I cannot therefore see what harm would be caused in the event that it was not used for a period of time. Therefore, I do not consider that it is necessary to impose the Council's suggested condition No 05.

Conclusion

14. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Daniel Hartley

INSPECTOR