
Appeal Decision

Site visit made on 14 March 2017

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 31 March 2017

Appeal Ref: APP/P4605/Z/16/3160449

The 'O' Bar, 264 Broad Street, Birmingham, West Midlands B1 2DS

- 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 Mr John O'Hara (Elonex) against the decision of Birmingham City Council.
 - The application Ref: 2016/04922/PA, dated 27 April 2016, was refused by notice dated 16 August 2016.
 - The advertisement proposed is a digital screen measuring 1.8 m x 1.2 m.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has cited a number of development plan policies. Whilst I have taken them into account as material considerations, the powers to control Advertisements under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) may be exercised only in the interests of amenity and public safety. Consequently, these policies have not been decisive in my determination of this appeal.
3. The appellant has attempted to amend the proposal after it was determined and has suggested that the depth of the digital display panel would be 7 cm and not 0.3 m. However, the appeal process should not be used to evolve a scheme and it is important that the facts before me are essentially the ones considered by the Council. The acceptance of this amendment would therefore be prejudicial to its interests as it has not had an opportunity to comment. Consequently, this appeal has been determined according to the details that were submitted at the application stage and the amended scheme will not be considered.

Main Issue

4. The main issue is the effect of the advertising screen on the character and appearance of the area bearing in mind the special regard that should be paid to the desirability of preserving features of special architectural or historic interest of the following Grade II listed building: 266 and 266X, Broad Street B1, 2 Gas Street B1.

Reasons

5. The digital advertising panel would replace an existing, painted wall sign on a ground floor, side elevation of the listed building. The panel would measure approximately 1.8 m x 1.2 m and be set approximately 1.5 m above the ground. The depth of the display, as indicated on the application form, would be approximately 0.3 m. The building is situated on the corner of Gas Street and Broad Street with the latter forming one of the main vehicular routes into the centre of Birmingham. The surrounding area is characterised by clusters of traditional buildings set against high office blocks and a modern convention centre and symphony hall.
6. I observe from the plans and my site visit that, despite its diminutive nature, the panel would occupy a prominent position on the side elevation of the listed building. Bearing in mind the nearby advertising fascias of the bar, as well as the wall mounted advertising of the first floor restaurant directly above, I find that the proposal would lead to advertising excess thus creating a more cluttered street scene. Irrespective of depth, the use of highly discordant, alien materials would create a strident contrast with the traditional materials and architectural form of the listed building. Furthermore, this bulky and incongruent addition would create a significant visual disruption of the largely intact ground floor elevation fronting Gas Street which is important in gaining an overall understanding of the original architectural form of the listed building given the modern frontage that has been installed.
7. I acknowledge that there are two digital displays in the immediate vicinity, however, these are not mounted on any listed nor do they disrupt traditional architectural forms or materials. Whilst advertising is clearly a feature of the building frontages along Broad Street, I do not find that it is a dominant feature nor do I find digital advertising to be a widely established norm. The appellant has drawn my attention to a presence of such advertising on Broad Street as well as 'throughout the City Centre'. However, no attempt has been made to substantiate why specific examples are the same, in all respects, to the one that is before me nor have any specific locations been identified. In any event, all appeals must be judged on their individual merits rather than through generalised forms of precedent.

Other Matters

8. The appellant has drawn my attention to a letter of support indicating that public safety would be improved through the increased illumination that the panel would provide to a 'dark corner of Gas Street'. However, I am not satisfied that the panel would lead to a material improvement in public safety given the very close proximity of a nearby street light. As such this matter carries little weight in the balance of this appeal.
9. The appellant has suggested that the proposal would help to provide commercial benefits to the bar owner. However, this matter falls beyond the scope of an appeal made under the Regulations and consequently carries no weight in the balance of this appeal.
10. I note that the Council have not objected to the advertisement on highway safety grounds, subject to the imposition of suitable conditions. However, this does not weight in favour of the proposal but simply indicates an absence of

harm. Consequently, this does not outweigh the harm that I have already identified.

Conclusion

11. For the above reasons and having regard to all other matters raised I conclude that the proposal is unacceptable on amenity grounds and that the appeal should therefore be dismissed.

Roger Catchpole

INSPECTOR