
Appeal Decision

Site visit made on 3 May 2017

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 18 May 2017

Appeal Ref: APP/W2465/Z/17/3171392

Land at Humberstone Road, Leicester LE5 0EG

- 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 Ben Porte (Insite Poster Properties) against the decision of Leicester City Council.
 - The application Ref 20162491, dated 16 December 2016, was refused by notice dated 16 February 2017.
 - The advertisement proposed is reinstatement of an advertising display measuring 6m by 3m (upgrade to digital format).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed advertisement on amenity and public safety.

Reasons

Effect on amenity

3. The appeal site is a parcel of land, roughly triangular in shape, located between Humberstone Road and an elevated main line railway. The appeal site is largely overgrown and in an unkempt condition containing discarded litter and other detritus.
 4. The immediate locality contains numerous forms of advertisements alongside Humberstone Road, many of which are of a similar size to the appeal proposal, and none of which the Council has identified as being unlawful. The presence of these advertisements therefore contributes to the area's overall character and appearance. While none that I observed are digital screens, I nevertheless find that the proposed advertisement would not appear inconsistent with its surroundings. I am satisfied that the height of the proposed advertisement would not appear prominent or visually intrusive in the street scene, as it would be largely viewed against the backdrop of the railway viaduct.
 5. The Council identifies that the appeal site lies adjacent to, but outside of the Main Line Railway Biodiversity Enhancement Site, which it states is an important wildlife corridor for protected species of birds and bats. This is not disputed by the appellant and I have no reason to disagree. While the Council has not been particularly clear as to what harm it says would be caused by the
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proposed development, the appellant has not sufficiently explained or demonstrated in evidence before me that it has understood this wildlife designation, or assessed what effects the construction and particularly the operation of the digital advertisement may or may not have on wildlife and/or their habitats.

6. Without knowledge of the possible effects that may or may not occur, it would be inappropriate to seek to resolve such matters through the imposition of planning conditions. The uncertainty in this regard is sufficient for me to adopt a precautionary approach, and find that the proposed development would harm conditions of amenity and that it would not accord with the relevant parts of the National Planning Policy Framework (the Framework). The presence of a previous advertisement panel on the site from some years ago has had little bearing on my decision.

Effect on highway safety

7. Paragraph 067 of the Planning Practice Guidance (the Guidance) (*Reference ID: 18b-067-20140306*) identifies that public safety could be affected where advertisements are located at, for example, junctions, roundabouts and pedestrian crossings where drivers need to take more care. Paragraph 068 of the Guidance (*Reference ID: 18b-068-20140306*) acknowledges that moving or apparently moving elements in their display, or successive individual advertisements which do not display the whole message may cause danger to road users.
8. I travelled on numerous occasions along Humberstone Road in the direction of the location of the advertisement. Because of the alignment, conditions and the speed restrictions of the road, I am satisfied that the proposed digital advertisements would be appropriately sited such that it would be readily visible from some distance back, and that the motorist would not be unduly surprised or distracted by its presence when travelling within close proximity to it. I am also satisfied that matters concerning, amongst other things, luminance and frequency of change of the images, and measures to prevent flashing images, could be controlled by planning condition to ensure the motorist would not be unduly distracted by the changing images. While traffic accidents have occurred along this stretch of road, it is not significantly a high number, and I have no reason to dispute the appellant's evidence that only a very few of these have actually occurred within the vicinity of the appeal site.
9. Taking all matters into consideration, I find that the proposed advertisement would not cause significant harm to highway safety. It would therefore accord with the relevant parts of the Framework and the Guidance.

Conclusion

10. For the reasons given above I conclude that the display of the advertisement would be detrimental to the interests of amenity.

R Allen

INSPECTOR