
Appeal Decision

Site visit made on 30 May 2017

by M Aqbal BA (Hons) DipTP MRTPI

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

Decision date: 23 June 2017

Appeal Ref: APP/C1055/Z/17/3172269
130 Macklin Street Derby DE1 1NG

- 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 Insite Poster Properties Limited against the decision of Derby City Council.
 - The application Ref DER/12/16/01466, dated 12 October 2016, was refused by notice dated 31 January 2017.
 - The advertisement proposed is the replacement of an existing illuminated 48-sheet advertising display with an illuminated 48-sheet digital LED display.
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Decision

1. The appeal is allowed and express consent is granted for the display of the replacement of an existing illuminated 48-sheet advertising display with an illuminated 48-sheet digital LED display, 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 advertisement permitted by this consent shall be no greater than 300 cd/sqm.
 - 2) The minimum display time for each advertisement shall be 10 seconds and there shall be no special effects (including noise, smell, smoke, animation, flashing, scrolling, three dimensional, intermittent or video elements) of any kind before, during or after the display of any advertisement.
 - 3) The interval between the display of each advertisement shall be 0.1 seconds or less and the complete display screen shall change without visual effects (including fading, swiping or other animated transition methods) between each advertisement.
 - 4) The advertising display panel shall have a default mechanism to freeze an advertisement in the event of any malfunction.

Procedural matter

2. I note that the appellant initially applied for a ten year consent for the proposed advertisement. This has subsequently been changed to a five year consent, as set out in the conditions suggested by the appellant in its appeal statement. Accordingly, I have considered the appeal on the basis that consent is sought for a five year period.

Main Issues

3. The main issues are the effect of the proposed advertisement on the amenity of the area, and public safety in respect of pedestrians using the highway.

Reasons

Amenity

4. The appeal site is situated at the junction of Macklin Street and Abbey Street, along a main thoroughfare, overlooking a public car park. There are other externally illuminated 48-sheet advertising displays nearby. The surrounding area is predominantly commercial.
5. Express Consent was granted in 2001 for the existing advertisement, which is an established feature of the street scene. I give this considerable weight.
6. The replacement advertisement would be similar in size and broadly in the same location as the existing advertisement. The main differences are that it would be in a slightly elevated position, by approximately 0.8m, it would have a greater depth of approximately 0.2m and includes LED illumination with transitional images.
7. The increase in height of the proposed advertisement would be seen against the side gable of a two storey commercial property (25 Abbey Street). The replacement advertisement would remain below the eaves of this property and thus would be absorbed by the established building line. Consequently, it would not appear unduly prominent in comparison to the existing advertisement.
8. The existing advertisement is externally illuminated. The proposed illumination of 300cd/sqm day and night is the level advised by the Institute of Lighting Professionals for suburban surroundings at night, which would be acceptable in the predominantly commercial location of the appeal site. The image changes would be at 10 second intervals. These would draw attention, such is their purpose, but, would not give the advertisement any appreciable prominence.
9. For the above reasons, I conclude that the elevated position of the replacement advertisement, combined with the LED illumination including transitional images, would not harm the amenity of the surrounding area, which is predominantly commercial in character. Accordingly, the proposal would not conflict with the aims to safeguard amenity of 'saved' Policy E26 of the City of Derby Local Plan Review.

Public Safety

10. The Council is concerned that the proposed advertisement as a consequence of its increased depth would overhang the public highway, and combined with its increased height above pavement level would result in risk of injury to pedestrians using the highway.
11. I observed that on either side of the appeal site there are existing street furniture elements including a lighting column, a waste bin, a sign and utilities infrastructure, which dictate the route pedestrians take, requiring them to walk around the advertisement. Based on these observations I am satisfied that notwithstanding its increased depth and height above pavement level, the proposed advertisement would not have any significant impact on public safety in respect of risk to injury of pedestrians using the highway, over and above

the existing advertisement. As such, the proposal would not conflict with the public safety aims of 'saved' Policy E26 of the City of Derby Local Plan Review and paragraph 079 of the Planning Practice Guidance (PPG).

Conditions

12. In addition to the five standard conditions set out in the Regulations, I am also attaching a further condition (1) to limit the illuminance in the interests of the amenity of the area. I have not limited this condition to apply only during the night time, to ensure consistency with the advertisement as applied for. I am also including three further conditions (2), (3) and (4) to avoid distraction in the interests of public safety. The appellant has also suggested a condition prohibiting the sequencing of messages relating to the same product. I note that the Council has not requested any such condition and the appellant provides no reasoning for it. As such, I am not persuaded that such a condition is necessary.

Conclusion

13. For the reasons given above, and subject to the standard and additional conditions listed, the appeal is allowed.

M Aqbal

INSPECTOR