
Appeal Decision

Site visit made on 4 July 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 07 July 2017

Appeal Ref: APP/P4605/Z/17/3175198
Aston Hall Road, Birmingham B6 7JU

- 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 Patrick Fisher of Wildstone Estates Limited, Calco Pubs Limited, and Mark Cropper and Ryan Grant of Alix Partners Services UK LLP against the decision of Birmingham City Council.
 - The application Ref 2017/00587/PA, dated 20 January 2017, was refused by notice dated 26 April 2017.
 - The advertisement proposed is one free standing tower incorporating two digital advertisements, associated logo boxes and sculptural public art detailing.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on amenity and public safety.

Reasons

Amenity

3. The proposed adverts would be mounted on a structure such that they would be around 30 metres above ground level and directed towards motorists on the elevated section of the A38(M). The illuminated adverts would measure around 5 metres by 7.5 metres and would be set in a surround displaying public art.
4. The A38(M) is a major route in the city and the adverts would be positioned closest to the southbound carriageway. As motorists drive southbound towards the city centre some tall blocks of flats are visible in the long distance to the left and the spire of a church is visible to the right. However in its immediate setting the advert would stand alone as a large, isolated feature separate from the gantry signs above the road, and distinct from the street lights that flank the road. In addition when seen from the northbound carriageway the advert would similarly appear as an unduly prominent feature as the only comparably tall structures in this vista are distant electricity pylons.
5. There are no other illuminated adverts nearby. Indeed the only other light sources in the area are limited to the street lights on the A38(M) and the illuminated directional signs on the overhead gantry which are all more subtle

than that proposed. For this reason also the adverts would appear alien in their context.

6. In summary, the adverts would appear isolated, excessively prominent in the skyline, and alien in their context. For this reason the adverts would generally differ from the other examples provided by the appellant of adverts nationally alongside major roads and locally alongside the M6 which are, in the main, smaller than that proposed or are not isolated, being either affixed to buildings or appearing as part of a cluster of adverts.
7. As such, the adverts would significantly harm the amenity of the area. I have taken into account Policy PG3 of the Birmingham Development Plan (BDP) and saved paragraph 3.14D of the Birmingham Unitary Development Plan which both seek to protect local context and character and so are material to this case. The adverts would conflict with these policies.
8. I have also taken into account the advice in the Council's Location of Advertisement Hoardings Supplementary Planning Document, and paragraph 67 of the National Planning Policy Framework (the 'Framework') which both underline the need for adverts to not adversely affect local amenity.

Public safety

9. The sign would be between the Park Circus junction, which starts around 250 metres south of the site, and the Gravelly Hill 'Spaghetti' junction where the A38 meets the M6 and the A5127, approximately 400 metres to the north. The proximity of these junctions to the site means that many cars passing the site will be preparing to leave the road or have just joined the road, or both, and hence would be manoeuvring between lanes. Indeed the overhead gantry sign, around 50m from the site, advises drivers in both directions of the upcoming junctions, though I accept this is not the only gantry sign which does this. In addition, this road adopts a contraflow system and the overhead gantries also instruct motorists which lanes are in use. Consequently, in proximity of the adverts, drivers would need to have their full concentration on the road ahead and surrounding traffic.
10. The Planning Practice Guidance (PPG) confirms that at locations where drivers need to take more care, such as at junctions, adverts are more likely to affect safety. In addition the PPG also states that adverts of an illuminated or unusual nature may distract drivers and that adverts on the skyline would be more likely to affect safety. As noted above, the adverts would not be seen against the backdrop of any building or in the context of any other advert and would appear markedly different to the other road signs on the gantry. I consider their scale, illumination and prominence in the skyline, in combination with their position near to the junctions on the A38(M), means that they would be distracting to users of the A38(M) and would adversely affect public safety. I have considered the other examples quoted by the appellant but few appear to be as close to junctions as that proposed.
11. I accept this part of the A38(M) is generally straight and drivers would be able to absorb the adverts over some distance. However this would partly depend on their content, which could not be controlled. Moreover the artwork within the surround would most likely only be discernible at closer range.

12. The accident record for the vicinity does not demonstrate that the stretch of the A38(M) near the site is particularly dangerous considering the volume of traffic that it carries. Nonetheless, this does not mean the introduction of the adverts would not compromise road safety.
13. Highways England make no comment on the application as the site is not adjacent to part of their network, and their response should not be given any beneficial weight.
14. Paragraph 67 of the Framework is clear that advertisements should be subject to control only in the interests of amenity and public safety. Therefore the contribution the Birmingham Collection, of which this proposal would form the first phase, would make to the city's cultural and public art strategies is not a matter I can take into account.

Conclusions

15. For the reasons given above, and taking account of all other considerations, I conclude that the appeal is dismissed.

Andrew Owen

INSPECTOR