
Appeal Decisions

Site visit made on 7 November 2017

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 20 November 2017

Appeal A Ref: APP/Q3060/Z/17/3180459

Pavement adjacent 63 Maid Marian Way, Nottingham NG1 6AJ

- 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 Nathan Still of Infocus Public Networks Ltd against the decision of City of Nottingham Council.
 - The application Ref 17/00768/ADV2, dated 6 April 2017, was refused by notice dated 14 June 2017.
 - The advertisement proposed is the display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk.
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Appeal B Ref: APP/Q3060/Z/17/3180455

Pavement fronting 4 Maid Marian Way, Nottingham NG1 6HS

- 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 Nathan Still of Infocus Public Networks Ltd against the decision of City of Nottingham Council.
 - The application Ref 17/00771/ADV2, dated 6 April 2017, was refused by notice dated 14 June 2017.
 - The advertisement proposed is the display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk.
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Appeal C Ref: APP/Q3060/Z/17/3180457

Pavement fronting 35 Milton Street, Nottingham NG1 4HF

- 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 Nathan Still of Infocus Public Networks Ltd against the decision of City of Nottingham Council.
 - The application Ref 17/00772/ADV2, dated 6 April 2017, was refused by notice dated 14 June 2017.
 - The advertisement proposed is the display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk.
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Appeal D Ref: APP/Q3060/Z/17/3180460

Pavement fronting 70 Milton Street, Nottingham NG1 3QX

- 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 Nathan Still of Infocus Public Networks Ltd against the decision of City of Nottingham Council.
 - The application Ref 17/00770/ADV2, dated 6 April 2017, was refused by notice dated 14 June 2017.
 - The advertisement proposed is the display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk.
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Appeal E Ref: APP/Q3060/Z/17/3180466

Pavement fronting Victoria Centre, Lower Parliament Street, Nottingham NG1 3QA

- 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 Nathan Still of Infocus Public Networks Ltd against the decision of City of Nottingham Council.
 - The application Ref 17/00775/ADV2, dated 6 April 2017, was refused by notice dated 14 June 2017.
 - The advertisement proposed is the display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk.
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Decisions

Appeal A

1. The appeal is allowed and express consent is granted for the display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk 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 Regulations¹.

Appeal B

2. The appeal is dismissed.

Appeal C

3. The appeal is dismissed.

Appeal D

4. The appeal is dismissed.

Appeal E

5. The appeal is allowed and express consent is granted for the display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk 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.

Procedural Matters

6. For ease of reference I have referred to the different cases as Appeal A to E in this decision as set out in the headers. Each appeal relates to a different site. Consequently, I have dealt with each appeal on its own merits. However, to avoid duplication given the issues raised by the main parties I have considered the proposals together in this document. For clarity, I have detailed which appeal I am referring to in brackets when I am describing or referring to a particular appeal site.
7. The Council, in refusing permission for the advert that is subject of Appeal C, referred to the proposal's alleged effect on the Lace Market Conservation Area (LMCA). However, the Council have confirmed that reason for refusal should not have referred to the LMCA. Furthermore, they confirmed that this appeal site (Appeal C) is not within or next to any other conservation area.

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

8. The scheme subject of Appeal E is next to, but outside of, the Old Market Square Conservation Area (OMSQCA). The Council do not, however, raise any specific concerns about the effect of the adverts that are subject of Appeals C and E on the setting of the LMCA or the OMSQCA. The Council's concerns with these schemes relate solely to the visual amenity of the area. As such, I have considered Appeals C and E on this basis.

Main Issues

9. The main issues in respect of Appeals A, B, C, D and E are the effect that the illuminated advertisement would have on: (i) public safety, with regards to the safety of persons using the highway; and (ii) the visual amenity of the surrounding area.

Reasons

Public safety

10. The proposed adverts that are subject of Appeals A, B, C and D would be internally illuminated in accordance with the level set out by the Institute of Lighting Professionals. Each appeal scheme would display static images. However, each of the proposed schemes would be more visible during the hours of darkness than the current non-illuminated advert at each appeal site (Appeals A, B, C and D).
11. Milton Street forms part of a controlled zone in the city centre that is only accessible to buses, taxis, cyclists and authorised vehicles. The street is heavily used by pedestrians as a result of the retail and leisure premises on the street, including the Victoria Centre. Deep pedestrian footpaths and bus stops are on both sides of the street. There is a taxi rank and a zebra crossing near to the site that is subject of Appeal C.
12. The advert subject of Appeal C would face the zebra crossing. It would draw the attention of motorists and cyclists on their approach to the crossing at a time when they need to pay particular attention to the crossing so that they can slow and stop to allow pedestrians to cross the road. Despite its scale, this advert (Appeal C) would prejudice the safety of road users. The advert subject of Appeal D would be next to a taxi rank. On the opposite side of the road from the appeal site (Appeal D) there are two bus stops. While my site visit was only a snap shot in time, I observed, pedestrians crossing the road near to the appeal site (Appeal D) to and from the bus stops opposite. Thus, the proposed advert would unduly draw the eye of drivers travelling in both directions on the road. Given this, the proposal would prejudice pedestrian safety.
13. I acknowledge that there are advertisements which form part of street furniture on Milton Street. I also recognise illuminated adverts are found on commercial premises on both sides of the street. However, the proposals subject of Appeals C and D would be far closer to the highway and its users.
14. Maid Marian Way is a busy two and three lane arterial route on the west side of the city centre. The site subject of Appeal B is in front of the Grosvenor Casinos which is next to the traffic light controlled junction of Maid Marian Way and Mount Street. The advert subject of Appeal B would be likely to distract drivers who are waiting at the traffic lights. This could result in shunts if motorists are not paying full attention to the signals. Furthermore, to the north-west is a traffic light controlled roundabout. Maid Marian Way, Derby

Road, Tollhouse Hill and Upper Parliament Street all feed into the roundabout. Maid Marian Way becomes a three lane carriageway on approach to the roundabout after its junction with Mount Street. The proposed advert would be likely to distract drivers joining Maid Marian Way from Mount Street when they are turning. Added to this, drivers may not be familiar with the road layout or the city. Thus, the proposed advert could, regardless of the advert's size, distract drivers who are changing lanes.

15. There are pedestrian crossing points across Maid Marian Way and Friar Lane to the north-west of the appeal site (Appeal A). Even though pedestrians crossing Maid Marian Way would have a line of sight of the proposal, they would be using a signalised junction due to the flow of traffic on this road. Pedestrians crossing Friar Lane would have a restricted view of the proposal due to street trees and or the premises on the corner of Friar Lane and Maid Marian Way.
16. Saved policy BE19 d) from the Nottingham Local Plan (Local Plan) seeks to ensure that the display of the sign would not prejudice highway safety and so it is material in the consideration of Appeals A, B, C and D. I have also had regard to paragraphs 17 and 67 of the National Planning Policy Framework (the Framework). Together they are concerned with the control of advertisements in the interest of public safety so that schemes enhance and improve the places in which people live their lives.
17. Appeal A would not, for the reasons set out above, prejudice highway safety. I therefore conclude that the proposed advertisement display subject of Appeal A, to be acceptable, in terms of public safety and it would not conflict with the policies referred to above.
18. In terms of the proposed advertisement display subject of Appeals B, C and D, I conclude that they would not be acceptable, insofar as public safety as each scheme would prejudice highway safety. Thus, these schemes would conflict with the policies set out above.

Visual amenity

19. There are a range of advertisements on Maid Marian Way, Milton Street and Lower Parliament Street, in terms of their style, character and illumination. Although not every advert is illuminated, the schemes subject of Appeals A, B, C, D and E would be viewed in the context of the commercial environment that characterises the location of each appeal site. Given this, and as the appeal schemes would replace existing non-illuminated adverts, the proposals would not lead to clutter in their respective local environments.
20. While each of the proposed adverts would be prominent, especially during the hours of darkness or in dull conditions, they would not be out of keeping with the area surrounding each appeal site, which is lit.
21. I note the Council's point in terms of the difference between the existing non-illuminated adverts and the prior approval applications that they considered, in respect of Appeals C, D and E. However, this decision relates to the advertisement that has been applied for in respect of each appeal. There is also no substantive evidence before me to suggest that the existing advertisements have led to anti-social behaviour or criminal activities.
22. The Council have referred to saved Local Plan policy BE19 b) and c) which seek to protect the visual amenity of the area and so it is material to Appeals A, B,

C, D and E. I have also had regard to paragraph 67 of the Framework, which seeks to prevent the negative impact of poorly placed advertisements.

23. The proposals that are subject of Appeals A, B, C, D and E would not, for the reasons set out above, be detrimental to the visual amenity of the area or result in clutter in the local environment. Consequently, I conclude in respect of these appeals that the proposed advertisement displays to be acceptable, in terms of amenity and they would not conflict with the policies set out above.

Conditions

24. With regards to Appeals A and E the Council has not suggested any conditions other than the five standard conditions set out in the Regulations.

Conclusions

25. For the reasons given above, in respects of Appeals B, C and D, I conclude that the display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk would be detrimental to the interests of public safety, but that they would not be detrimental to the interests of amenity. I have had regard to the appellant's suggested planning conditions. However, I do not consider that this otherwise unacceptable development could be made acceptable through their use. Thus, I conclude that the Appeals B, C and D should be dismissed.
26. In terms of Appeal A, I conclude that the display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk would not be detrimental to the interests of amenity and public safety. With regards to Appeal E, I conclude that the proposal would not be detrimental to the interests of amenity. Hence, for the reasons given above I conclude that the Appeals A and E should be allowed.

Andrew McGlone

INSPECTOR