



Appeal Decision

Site visit made on 3 July 2019

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2019

Appeal Ref: APP/C4615/Z/19/3228288

Advertising Station at Tipton Road opposite Castle Court, Dudley DY1 4AH

- 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 Matt Swindles (Primesight Ltd) against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P19/0089, dated 18 January 2019, was refused by notice dated 15 March 2019.
 - The advertisement proposed is replacement of existing 1no 48 sheet advertising display with 1no 48 sheet digital LED advertising display.
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Decision

1. The appeal is allowed and express consent is granted for the replacement of the existing 1no 48 sheet advertising display with 1no 48 sheet digital LED advertising 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 candelas per square metre between dusk and dawn and 1,000 candelas per square metre during the day.
 - 2) At all times, each advertisement shall be displayed for no fewer than 10 seconds and there shall be no special effects (including animation, flashing, scrolling, intermittent or video elements) of any kind before, during or after the display of any advertisement.

Main Issues

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

Reasons

3. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the above Regulations may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's policies have not, therefore, by themselves been decisive.

Amenity

4. The appeal site is located along a straight section of dual carriageway which passes through an area of mixed commercial and residential uses. The area is subject to ongoing regeneration with modern leisure and hotel development at Castlegate Court opposite. The road is lined with trees and the elevated well treed area of Castle Hill Conservation Area provides an attractive backdrop. There are a number of other advertising hoardings in the surrounding area, including alongside the Castle Gate roundabout, a short distance from the appeal site.
5. The proposed sign would replace an existing hoarding with an LED digital display of the same height and width. The existing advertisement is not unduly prominent in the street-scene, due in part to the presence of mature trees close by. The existing sign is viewed against the vegetation immediately surrounding it along with the street lights and other features associated with the road. Replacing the existing hoarding with a changing digital display could increase its prominence but I consider that, due to the position of the sign and the vegetation around, this effect will be limited. Given the modern development in this area I do not consider that a digital display would appear particularly out of place or incongruous, and indeed may appear smarter than the existing display.
6. Guidance on appropriate levels of illumination for advertisements during the day and night has been produced by the Institution of Lighting Professionals¹ (ILP). The appellants have indicated that the proposed advertisement would be controlled in accordance with this guidance.
7. The Council is concerned about the impact of the proposal on the setting of Castle Hill Conservation Area. The conservation area is some distance away and the existing trees and other vegetation along the roadside and on the land to the rear of the site help provide a green buffer between the sign and the conservation area boundary. Furthermore, the sign faces away from, so would not be visible from, the conservation area. I do not consider that the proposed advertisement would have an adverse effect on the setting of the conservation area.
8. For the reasons above I conclude that the sign would have an acceptable effect upon the visual amenity of the area.

Public safety

9. Illuminated signs with changing images have the potential to cause harm to public safety by distracting drivers and other road users, particularly in circumstances where drivers are faced with increased cognitive demand, such as at busy junctions.
10. The appeal site is located on a straight section of dual carriageway and the proposed advertisement would not be close to traffic signals or crossings, nor would it obscure any road signs. I have attached a condition to control the levels of illumination and the rate of change of images to minimise the potential for distraction. Therefore, I do not consider that the sign would present a hazard to drivers.

¹ Professional Lighting Guide 05 – The Brightness of Illuminated Advertisements 2014

11. I conclude that the impact of the proposed advertisement on public safety would be acceptable.

12. Conclusion

13. For the reasons given above, I allow the appeal. In addition to the standard five conditions, I have imposed two additional conditions in the interest of highway safety, given the proximity of the advert to a main road.

Rosie Morgan

Inspector