



Appeal Decision

Site visit made on 18 June 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2019

Appeal Ref: APP/J0350/H/19/3221888

Slough Delivery Office, 15 Wexham Road, Slough SL2 2QE

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against conditions imposed when granting express consent.
 - The appeal is made by the Royal Mail against the decision of Slough Borough Council.
 - The application Ref P/02534/024 is dated 6 December 2018. The condition in dispute is No 11 which states that: *"The sign shall not display any moving, scrolling, flashing, apparently moving, intermittent or any other images that are not of a static fixed display of a duration of less than thirty (30) seconds"*. The reason given for the condition is: *"To rapidly changing or flashing images that could lead to danger to highway users and users of the pedestrian crossing in accordance with Core Policy 7 of the Slough Local Development Framework, Core Strategy 2006-2026, Development Plan Document, December 2008."*
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Decision

1. The appeal is allowed and the advertisement consent Ref P/02534/024 for the display of 2 x freestanding units to display 1 no. LED screen each at Royal Mail, Slough Delivery Office, 15 Wexham Road, Slough SL1 1AA granted on 6 December 2018 by Slough Borough Council is varied by deleting condition 11 and substituting it with the following condition:
 - 1) The signs shall not display any moving, scrolling, flashing, apparently moving, intermittent or any other images that are not of a static fixed display and no individual advertisement shall be displayed for a duration of less than 10 seconds.

Procedural Matters and Background

2. In the interests of consistency, in my decision I have used a similar description of development and site address as that shown on the decision notice issued by the Council dated 6 December 2018.
3. The appeal follows the grant of express advertisement consent for 2 large freestanding LED screens. The appeal seeks a variation of condition 11 such that the duration of the image to be displayed should not be less than 10 seconds rather than the stated 30 seconds, thereby allowing a more frequent change of image. The reason for the condition refers to the safety of highway users, and therefore, relates to the consideration of public safety under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations).

Main Issue

4. The main issue is whether the disputed condition is necessary and reasonable in respect of public safety, with particular regard to highway safety.

Reasons

5. The LED screens would be in a built-up mixed-use area adjacent to the A4. The section of the A4 closest to the appeal site is a busy, well lit, dual carriageway with a 30mph speed limit in force. The road is reasonably straight at this point with a limited number of minor left-in, left-out accesses directly onto the highway. Nevertheless, the appeal site is located adjacent to a stretch of road between two large roundabouts, which depending on the weight of traffic, is likely to result in the speed of traffic often being lower than the speed limit. Pedestrians are prevented from crossing the A4 at this point due to the position of a central barrier, with subways located in the vicinity.
6. It is not disputed by the appellant that there should be some restriction to prevent distracting images to drivers in the interests of highway safety. The question therefore, is whether the specified 30 second limitation would be proportionate and reasonable taking into consideration the level of activity, signage and movement that road users already encounter within this urban context.
7. The two LED displays face east and west respectively and would present a series of static images that would change almost instantaneously. The proposal would be that each image would last at least 10 seconds. I accept that this would be a sufficient duration to prevent them appearing as moving images. Furthermore, this would double the minimum 5 second duration contained in the related industry association voluntary code¹, designed to avoid a frequency of images that would be distracting to highway users such that highway safety is put at risk. There is some evidence that this figure features in planning guidance used elsewhere in the country² which attracts moderate weight.
8. However, my attention has been drawn to the more common practice of limiting the duration of such image changes to not less than 10 seconds, as this was found to have an acceptable impact upon public safety in several recent planning appeal decisions³. The description of the highway conditions in those cases have similar characteristics to the appeal site before me and so, attract considerable weight in support of the proposal. Based on the evidence presented, I see no reason to reach a different conclusion in this case, as there is little robust evidence or explanation as to why the specific duration of 30 seconds was imposed in order to prevent harm to public safety.
9. Moreover, whilst the comments of the Highway Authority indicated that conditions would be necessary in the interests of highway safety, including the duration of images, they were not specific as to the requisite timing. I have not been provided with the conditions that were imposed in relation to the LED screen permitted at Queensmere⁴ and so have been unable to make a direct comparison. However, there is little indication that highway conditions in the

¹ Outdoor Media Centre, Digital Large Format Roadside Code January 2011

² City Centre Digital Medial Interim Planning Statement, Nottingham City Council, 2017

³ Referenced APP/A5270/H/17/3183324 & APP/A5270/Z/18/3195922

⁴ Reference P/15081/004

locality are particularly unusual, nor that the accident record in the area would warrant a longer duration than 10 seconds.

10. In line with the Regulations, account is taken of Core Policy 7 of the Slough Local Development Framework, Core Strategy 2006-2026, December 2008 that states proposals should make appropriate provision to improve road safety. As such, this is relevant to the consideration of public safety. On this basis, restricting moving images in advertisements from distracting road users in order to protect the safety of highway users would be reasonable if an appropriate balance is struck. Furthermore, this would be in accordance with the provisions of paragraph 132 of the National Planning Policy Framework.
11. Planning Practice Guidance suggests that if a condition is wider in scope than is necessary to achieve the desired objective, it will fail the test of necessity. The evidence does not show that a change of images every 10 seconds would cause a distraction to drivers and other road users such that there would be harm to highway safety. On that basis, it is not necessary to set a minimum of 30 seconds for the change of image, when a less onerous restriction would achieve the same objective.
12. Accordingly, I find that the wording of condition 11 in relation to the duration of 30 seconds is unreasonable and unnecessary in terms of its length, as the evidence supports that a variation to 10 seconds would adequately protect public safety in these circumstances.

Other matters

13. The appellant highlights their disappointment with the actions of the Council during and after the advertisement consent application, which they consider fell below best practice standards. However, these matters lie outside the scope of this decision, which I have determined on its own merits.

Conclusion

14. For the reasons given above, I conclude that the appeal should be allowed, and the wording of condition 11 is varied as set out above.

Helen O'Connor

Inspector