
Appeal Decision

Site visit made on 19 June 2019

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd September 2019

Appeal Ref: APP/N4720/Z/19/3227150

38 Commercial Road, Kirkstall, Leeds, LS5 3AQ

- 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 Richard Page (Insite Poster Properties Ltd) against the decision of Leeds City Council.
 - The application Ref 19/00843/ADV, dated 7 February 2019, was refused by notice dated 27 March 2019.
 - The advertisement proposed is the replacement of a 48-sheet advertising display with a 48-sheet digital advertising display.
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Decision

1. The appeal is allowed and express consent is granted for the display of the 48-sheet digital 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 candela/m² during the day and shall be no greater than 150 candela/m² at night (dusk to dawn).
 - 2) The advertisement hereby approved shall not have any intermittent light source or exposed cathode tubing, have any special effects before, during or after the display of any advertisement (including noise, smell, smoke, animation, flashing, scrolling) or display any moving or apparently moving images or animation. The sequencing of messages relating to the same product is prohibited.
 - 3) The advertisement hereby approved shall not change more frequently than once every 10 seconds, the sequential change between advertisement displays shall take place over a period of no greater than 0.1 second and the display will include a mechanism to freeze the image in the event of a malfunction.

Main Issues

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

Reasons

3. The appeal site comprises of an area to the side of a two storey end terrace property. The surrounding area contains a mixture of different uses and a varied range of buildings, from the row of traditional commercial properties

through to a larger supermarket and other retail businesses, with associated car parking. The site is positioned on Commercial Road, close to the junction with Savins Mills Way. The proposal seeks to replace the existing advertisement on the site with a digital advertisement display with the same height and width dimensions.

Public Safety

4. The proposal would face traffic travelling in a broadly southerly direction along Commercial Road. A traffic signal controlled junction is situated a short distance to the north of the appeal site. The Council have raised concern that the display will distract drivers who are approaching the traffic lights. I was able to see the traffic signal controlled junction on my visit, and note the proposed display will be located in the general backdrop to the traffic signals. However, I was also able to see the presence of a number of sets of signal heads and only some of these would be viewed directly against the display. I appreciate this nearby traffic controlled junction is busy, and has various pedestrian routes. However, given the distance between the advertisement proposed and the signals, I consider that the former would be sufficiently separated from the traffic lights to not unduly distract drivers.
5. The Council have identified the presence of a 'concern junction' at Abbey Road with Bridge Road. The advertisement would however be seen in distance background views, as this junction is situated away from the site, further to the north, beyond the junction of Commercial Road with Savins Mills Way. Reference has also been made to there being 4 instances of signal violations in the area during the period 2012-2016. Although the Council have stated that they are aware of a more detailed level of information, such as in respect of signal violations, I have not however been made aware of any further information such as the precise location of these violations or why they occurred. I was able to see that there are a limited number of illuminated signs in the area, and whilst the proposal would be illuminated and include sequentially changing adverts, there is no substantive evidence before me, on why in this instance, the digital advertisement proposed would be distracting to the point of creating a hazard.

Visual Amenity

6. The proposal would be situated on the gable end of a terrace row that contains commercial uses. The area in the vicinity of the site is dominated by a busy traffic junction and various commercial uses which includes a larger format supermarket and other retail businesses. I note the presence of a garden nearby and the large verge with established trees on the opposite side of Commercial Road, however, the immediate character is distinctly commercial as the Council acknowledge.
7. The appeal site already contains a large format advertisement, which would be replaced by a digital proposal of the same height and width. Although it would be situated at an elevated level, its siting would be no different to the existing advertisement. The contrast of the modern digital sign with the traditional stone buildings has been raised, but the proposal would be set against the largely blank rendered gable elevation of No. 38 Commercial Road and I do not consider that it would obtrusive in this respect.

8. The Council raise concerns on the illuminated nature of the advert, which they consider, given its size and scale, would form an overly prominent addition. Whilst I was able to see that the area around the site was absent of other large digital advertisements, there were a variety of advertisements along Commercial Road. Given the busy, commercial character of the area, I do not agree with the Council's statement that any level of illumination would be unacceptable. I note the concern that during the hours of darkness, that the verge area to the east of the site is quite dark. There is however street lighting along both sides of Commercial Road and within the central island area close to the junction of Commercial Road with Savins Mills Way. Given the illuminated nature of the highway, I do not find that the proposal would appear overly bright, subject to suitable controls being placed on the levels of illumination.
9. I note that reference has been made to a number of development plan policies, the Advertising Design Guide Supplementary Planning Document and also to the National Planning Policy Framework. Whilst I have taken them into account as material considerations and note the reference to the planning history of the site, the power to control advertisements under the regulations may be exercised only in the interests of public safety and amenity. Consequently, in my determination of this appeal, these matters have not, themselves, been decisive.

Conditions

10. In addition to the standard conditions set out in the regulations, a number of conditions have been suggested. I consider a condition to control the intensity of illumination is required. In the interest of public safety, conditions are also required to avoid any moving/apparently moving images or other special effects, to control the frequency of advertisement changes including preventing any sequencing of messages relating to the same product and to ensure that changes occur quickly in the interests of public safety as well having a mechanism to freeze images in case of malfunction. The wording of some of the suggested conditions have been altered in the interests of conciseness and enforceability.

Conclusion

11. For the above reasons and having regard to all other matters, including reference to pre-application advice, I conclude that the appeal should succeed.

F Rafiq

INSPECTOR