
Appeal Decision

Site visit made on 17 September 2019 by Andreea Spataru BA (Hons) MA

Decision by Susan Ashworth BA (Hons) BPL MRTPI

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

Decision date: 15 October 2019

Appeal Ref: APP/Q4625/Z/19/3229278

ACU Relax Centre, 167 Stratford Rd, Shirley, Solihull, West Midlands B90 3AX

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Mr John O'Hara against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2019/00324/ADV, dated 4 February 2019, was refused by notice dated 3 April 2019.
 - The advertisement proposed is described as "electronic digital display".
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Decision

1. The appeal is allowed and advertisement consent is granted for an electronic digital display at ACU Relax Centre, 167 Stratford Rd, Shirley, Solihull, West Midlands B90 3AX in accordance with the terms of application ref: PL/2019/00324/ADV, dated 4 February 2019 subject to the standard conditions set out in the Regulations and the following additional conditions:
 - 1) The luminance levels shall be restricted to 300 candelas per square metre during hours of darkness and 600 candelas per square metre at all other times.
 - 2) The screen display shall only show two dimensional static images, shall contain no moving images, animation, video or full motion images and no messaging should spread across more than one screen image.
 - 3) The advertisement display shall not change more frequently than every 10 seconds and the change between advertisements shall be instantaneous.
 - 4) The illumination of the advertisements shall not at any time be intermittent.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect of the proposal on the visual amenity of the area.

Reasons for the Recommendation

4. The appeal site comprises an end of terrace two-storey building located in a corner position, with the side wall facing towards the south. The building accommodates a commercial unit at ground floor and is adjacent to a wide four-lane highway. A large externally illuminated advertisement exists on the gable end of the appeal site and the proposal would replace this existing advertisement with an internally illuminated digital display of the same size. The proposed advertisement would change statically every 10 seconds and the change between advertisements would be instantaneous.
5. The appeal site falls within an area comprising a mix of residential, commercial and business uses. The busy character of the main road and the substantial number of advertisements in the vicinity contribute to the vibrant appearance of the area. The existing advertisement, which appears to have been in place for some time, makes a neutral contribution to that character and appearance. It faces towards the northbound traffic using Stratford Road and, given the siting of the building in relation to the road, is only wholly visible for a limited distance along one side of Stratford Road, and is not seen from the other side. The proposed sign would be visible from similar vantage points.
6. The Council's primary concern is that the visibility and prominence of the advertisement would be increased by the nature of the proposed LED display. However, whilst I acknowledge that digital images could be crisper than those of the existing advertisement, and would change at regular intervals, the level of illumination could be regulated by condition. The appellant indicates that luminance levels would not exceed 300 candelas per square metre. At such levels I am satisfied that the luminance of the advertisement would be appropriate in the context of the surrounding environment. Similarly, the speed with which the advertisements change and the prevention of video or moving images could also be controlled by condition. Consequently, whilst the advertisement would appear more modern and may draw the eye more than the existing, it would not appear intrusive or out of place.
7. For the reasons given above, I consider that the advertisement would not cause material harm to the amenity of the area. The Council has drawn my attention to Policies P14 and P15 of the Solihull Local Plan which seek to protect amenity. However, whilst I have taken them into account as material considerations, the powers to control advertisements under the Regulations may be exercised only in the interests of amenity and public safety. Consequently, in my determination of this appeal the Council's policies are not, in themselves, decisive.

Other matter

8. I have noted the Council's concern regarding the effect of the proposal on the living conditions of the occupiers of the adjacent site 165 Stratford Road in terms of light pollution. However, the Planning Practice Guidance advises that 'amenity', in the context of the control of advertisements, includes aural and visual amenity but does not extend to considerations relating to living conditions. Given the powers to control advertisements set out in the Regulations as described above, this matter is not therefore determinative in my consideration of the appeal.

Conditions and Recommendation

9. I have considered the comments made by the main parties regarding the necessity of conditions relating to the control the luminance of the sign, moving images and the frequency with which the displays change. In the interests of public safety and visual amenity such conditions are necessary to make the proposal acceptable.
10. For the reasons given above and regard to all other matters raised, I recommend that the appeal is allowed.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

S Ashworth

INSPECTOR