



Appeal Decision

Site visit made on 20 January 2020 by A J Sutton BA Hons DipTP DMS MRTPI

by David M H Rose BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th March 2020

Appeal Ref: APP/P4605/Z/19/3239563

Land positioned between southbound carriageway of M6 motorway and Perrywell Road, before crossing Tame Valley Canal, B6 7AY

- 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 Birmingham City Council.
 - The application Ref 2019/03207/PA, dated 26 March 2019, was refused by notice dated 3 September 2019.
 - The advertisement proposed is described as 'erection of two digital advertising displays'.
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Decision

1. The appeal is dismissed.

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 Issues

3. The main issues are the effect of the proposed advertisement on the character of the surrounding area and on public safety for users of the M6 motorway.

Reasons for Recommendation

4. The appeal site is within an industrial/business park bisected by an elevated section of the M6 motorway and the River Tame and edged by mixed urban residential and retail areas. The Tame Valley Canal is located east of the appeal site, with business units comprising relatively low profile warehouses and shed like structures beyond the canal and to the north. The immediate area is relatively flat and set against the dominating concrete structure support of the southbound carriage of the M6 which forms the backdrop to the appeal site. The landform in the wider area rises slightly beyond Moor Lane to Witton Cemetery to the east, which is an attractive open green space and contrast to the urban setting.
5. The proposal is for the erection of two back to back internally illuminated digital advertising displays which would be positioned 2m above the M6 near the southbound carriageway and would be visible to road users on both north and southbound carriageways. The displays would present two dimensional static

images on a 10 second sequential rotation. They would be positioned on a structure to be sited on a grass verge area off Perrywell Road within the industrial estate.

6. 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 where relevant. However, powers under the Regulations¹ to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (Framework) and the Planning Practice Guidance (PPG) reiterate this approach. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

Character and Appearance

7. The Regulations define factors considered relevant to amenity, which include general characteristics of the locality, including the presence of any features of historic, architectural, cultural or similar interest. The PPG, noting that this is not an exhaustive definition, clarifies that amenity is understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement ...where residents or passers-by will be aware of the advertisement².
8. Whilst I note the dominance of the elevated concrete infrastructure which forms the M6, buildings at street level, near the appeal site, have a relatively low profile and appear of a consistent height. In contrast to the bustling industrial setting, the area benefits from green corridors formed by the canal and river, grass verges with trees, open parkland of the cemetery and pockets of retained soft landscaping which significantly offset the brutal backdrop of the looming motorway at street level and provides a sense of openness in the area resulting in a relatively uninterrupted skyline when observed from the motorway carriageway.
9. The advertisement is designed to be large and clearly noticeable. It requires a tall metal clad supporting structure, some 17 m in overall height, which would appear as an isolated, eye-catching, block-like, vertical feature which would be incongruous in this setting. It would not appear as an integrated part of the motorway when viewed from Perrywell Road or relate to any existing features in the streetscape below the carriageway.
10. The solid character of the proposal would differ considerably from other existing high structures in the area, such as pylons, gantries and street lights which appear as more familiar and less bulky features when viewed from a distance and as such do not appear overly dominant in the street scene or when observed from the motorway.
11. As such the proposed monolithic structure would be a prominent and alien addition which would adversely disrupt the existing fine balance of natural and built features which positively contribute to the character of the area at street level and prevailing sense of openness on this part of the motorway.
12. In light of the foregoing, it is concluded that the proposal would significantly harm the visual amenity of the area, and in doing so my decision is limited to

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

² Paragraph 079 Ref ID:18b-079-20140306

the matters set out in the Regulations. There would also be conflict with Policy PG3 of the Birmingham Development Plan 2017, Paragraphs 3.14C-D of the Birmingham Unitary Development Plan 2005 and guidance set out in Location of Advertisement Hoardings (DC Guidelines No 40) which collectively ensure that development demonstrates high design quality which contributes to a strong sense of place, having regard to the impact of the development on local character including skyline, scale and mass and only permitting adverts in commercial areas where there are no adverse effects on amenity.

Public Safety

13. The Regulations state factors relevant to the assessment of public safety include the safety of persons using any highway³. The PPG provides details regarding types of advertisements which may cause a danger to road users, highlighting externally or internally illuminated signs (incorporating either flashing or static lights) which because of their size or brightness could ... distract road-users, particularly in misty or wet weather, or those which are subject to frequent changes of the display⁴.
14. Although the carriageway of the motorway is straight, level and well lit, the appeal site is close to a busy section of the M6 which experiences heavy traffic flows, slowing vehicles and congestion at times. The appeal site is located almost equidistant between the 1 mile and ½ mile advance direction signs for junction 6 on the southbound carriageway and is described by Highways England as a decision making zone, with drivers making lane selection choices. Furthermore, the stretch of the M6 is a Smart motorway with overhead gantries providing changing messages requiring drivers to vary speeds and allowing the use of the hard shoulder at times. The combination of these factors requires drivers to have a high level of concentration to safely navigate the changing road conditions.
15. Advertisements are intended to attract attention and proposed advertisements at points where drivers need to take more care are more likely to affect public safety, for example, at junctions or other places where local conditions present traffic hazards⁵. Whilst there is no indication of a collision cluster in this area, I agree with Highways England that given the nature and status of the road, outlined above, the introduction of an advertisement, which is designed to be viewed, on a road requiring focused concentration from drivers, would affect the public safety of those using the carriageway of the motorway in the area.
16. Motorists should concentrate on signage on gantries, which is designed to aid the safe movement of traffic on the motorways. Whilst the advertisement would be readily distinguishable from the Smart motorway messaging system, any additional distraction, albeit designed to be level with the road user's line of vision, would have the potential to lead to incidents given the nature and changing conditions of the road close to the appeal site.
17. Amendments to the height of the proposed advertisement, absence of special effects and planning conditions controlling the display would not address the concerns indicated above.

³ Town & Country Planning (Control of Advertisement) (England) Regulations 2007 3(2)b

⁴ Planning Practice Guidance Paragraph: 068 Reference ID: 18b-068-20140306 (d) iii & iv

⁵ Planning Practice Guidance Paragraph: 067 Reference ID: 18b-067-20140306

18. For the reasons outlined above, I conclude, due to the nature of the road and the siting of the proposal, the proposed advertisement would have an unacceptable effect on the public safety of road users on the adjacent motorway. Although not decisive in this case, there would also be conflict with guidance set out in Location of Advertisement Hoardings (DC Guidelines No 40) which states that the siting of advertisements will not normally be acceptable where they are visible from the M6 motorway and attention of drivers is likely to be distracted to an unacceptable degree.

Conclusion and Recommendation

19. For the reasons outlined above, and having regard to all other matters raised, it is recommended that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and concur that the appeal should be dismissed.

David MH Rose

INSPECTOR