



Appeal Decision

Site visit made on 27 July 2020

by Conor Rafferty LLB (Hons), AIEMA, Solicitor

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/Q3060/Z/20/3254590

263 Nottingham Road, Nottingham NG7 7DA

- 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 Smith of Alight Media Limited against the decision of Nottingham City Council.
 - The application Ref 19/00730/ADV2 dated 27 March 2020 was refused by notice dated 2 June 2020.
 - The advertisement proposed is described as 'Replacement of an existing illuminated 48-sheet advertisement display with an illuminated 48-sheet digital advertisement display'.
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Decision

1. The appeal is allowed and express consent is granted for the replacement of an existing illuminated 48-sheet advertisement display with an illuminated 48-sheet digital advertisement display at 263 Nottingham Road, Nottingham NG7 7DA. 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 illuminance of the advertisement shall be no greater than 300 candela/square metre during hours of darkness and no greater than 600 candela/square metre during the hours of brightness.
 2. The display shall not change more than once every 10 seconds and the use of message sequencing for the same product is prohibited.
 3. There shall be no special effects (including moving images, animation, flashing, scrolling, three dimensional, intermittent or video elements) of any kind, or any images that resemble road signs or traffic signals during the time that any message is displayed.
 4. The interval between successive displays shall be instantaneous (0.1 seconds or less), the complete screen shall change, there shall be no visual effects (including fading, swiping or other animated transition methods) between successive displays.
 5. The display shall contain at all times a feature that will turn off the screen in the event that the display experiences a malfunction or error.

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.

Procedural Matters

3. The Regulations¹, National Planning Policy Framework (the Framework) and National Planning Practice Guidance (PPG) make it clear that advertisements should be subject to control only in the interests of public safety and amenity. Regulation 3(1) of the Regulations states: A local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety, taking into account - (a) the provisions of the development plan, so far as they are material; and (b) any other relevant factors. Policy DE5 of the Nottingham City Council Local Plan Part 2 Land and Planning Policies January 2020 seeks to protect amenity and so is material in this case but is not determinative in reaching a decision on the appeal.

Main Issue

4. The main issue in this case is the effect of the proposed advertisement on the visual amenity of the area.

Reasons for the Recommendation

5. The appeal site comprises the gable wall of the building at 263 Nottingham Road, at the junction with Rosetta Road. A 48 sheet backlit illuminated advertisement display is currently present on the gable wall, along with signage for the business located at the premises. The surrounding area is characterised by a range of uses. The area to the south west of the site along Rosetta Road is primarily residential in nature, with dwellings lining both sides of the street. However, along Nottingham Road the immediate area is predominantly commercial in character due to the presence of a car wash, retail park and other businesses. Consequently, the gable wall at the site marks a transition between the residential area of Rosetta Road and the more commercial character of Nottingham Road.
6. The proposed advertisement would comprise a digital full colour display with changing, intermittent static images on the gable wall to replace the backlit 48 sheet poster advertisement panel currently present. It would not be visible when travelling north west along Nottingham Road but views would be experienced when travelling south east where the sign would be experienced primarily in the context of the commercial surrounds. While the nearby dwellings on Rosetta Road would become more apparent on the approach to the site, the gable wall and its current advertisements read as the end to the commercial section as it merges into the more residential area. This is also the case when travelling to and from Rosetta Road. The proposal would relate more to the commercial surroundings than the housing beyond. In this sense it would not detract from the visual amenity of the wider area.
7. In terms of scale, the proposed advertisement is of standard dimensions matching those of the display currently present at the site such that it would not result in a more dominant addition to the immediate locality in this regard. While the proposal would be positioned higher on the gable wall, it would be set in from the road by the same distance, and the height difference in the positioning between the two displays would not lead to a significant increase in the prominence of the proposal when compared with the current advert. Furthermore, the more elevated position does not interfere with any significant

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

features present at the site or harm the visual simplicity of the gable wall. The proposal would, therefore, not be out of scale with the host building when compared with the current situation.

8. While the proposed advertisement would be illuminated to a greater degree than the backlit display at the site and would also change images intermittently, the appellant has stated that it would not comprise any moving images, animation, video or full motion images. The rate of image change and brightness of the advertisement, which would be controlled remotely, would also be in line with industry standard. Therefore, while the proposal would be more noticeable than the current poster at the site due to this digital illumination and changing images it would not cause such a drastic change to the appeal site so as to have a significantly adverse effect on the visual amenity of the area.
9. For the reasons given above I therefore find that the proposal would not have a harmful effect on the visual amenity of the area.

Conditions

10. In addition to the five standard conditions set out in the Regulations the appellant has suggested a number of conditions which I have considered. The appellant has suggested a time period of ten years however no specific reason for this is given. As such, I have imposed the usual time period of five years.
11. I have considered it necessary in the interests of amenity to impose a condition that the advertisement should operate at an illumination level no greater than 300 cd/square metre at night or 600 cd/square metre during the day in the interests of amenity, which reflects the guidance of the Institution of Lighting Professionals, Professional Lighting Guide 2015. I also consider it necessary in the interests of amenity to impose conditions that the display shall not change at a frequency of more than once every 10 seconds, message sequencing for the same product shall be prohibited and that the interval between successive displays should be instantaneous. No moving or apparently moving images should be displayed, and the screen should automatically switch off in the case of a malfunction in the interests of amenity and safety.
12. I am not persuaded that the condition proposed by the appellant relating to the resemblance of advertisements to highway signage is necessary. In this regard, I note that this was not proposed by the Council who raised no concern in relation to highway safety, nor was it requested by the Council's highways officers.

Conclusion and recommendation

13. Having had regard to all matters raised, I recommend that the appeal should be allowed and express consent is granted for the replacement of an existing illuminated 48-sheet advertisement display with an illuminated 48-sheet digital advertisement display at 263 Nottingham Road, Nottingham NG7 7DA subject to the conditions set out at paragraph 1 of this recommendation.

C Rafferty

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis I agree that the appeal should be allowed and express consent is granted for the replacement of an existing illuminated 48-sheet advertisement display with an illuminated 48-sheet digital advertisement display at 263 Nottingham Road, Nottingham NG7 7DA subject to the conditions set out at paragraph 1 of this recommendation.

C Preston

INSPECTOR