The Planning Inspectorate

Appeal Decision

Site visit made on 22 September 2020 by John Gunn DipTP Dip DBE MRTPI

Decision by R C Kirby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2020

Appeal Ref: APP/P4605/Z/20/3249589
Adjacent to No.57, Soho Road, Birmingham B21 9BN

- 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 Matt Swindles, of Global against the decision of Birmingham City Council.
- The application Ref 2019/08457/PA, dated 09 October 2019, was refused by notice dated 31 January 2020.
- The advertisement proposed is Upgrade of 1no. 48-sheet advertisement hoarding to digital LED display.

Decision

1. The appeal is allowed and express consent is granted for the Upgrade of 1no. 48-sheet advertisement hoarding to digital LED display at Adjacent to No.57, Soho Road, Birmingham B21 9BN in accordance with the terms of application Ref 2019/08457/PA, dated 09 October 2019 subject to the consent being limited to five years, the five standard conditions set out in the Regulations, and the following additional conditions:

   1. The digital display will at all times comply with the luminance guidelines contained within 'The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements – 2015'

   2. The luminance level of the digital display shall be controlled by a light sensor which tracks the ambient light level throughout the day.

   3. The intensity of the illumination of the advertisement shall not exceed 300 candelas per square metre (cd/m2) between dusk and dawn.

   4. The minimum length of time for each display shall be 8 seconds and the time interval between successive displays shall be no greater than 0.1 seconds with no fading, swiping or other animated methods between successive displays.

   5. The digital advertisement shall not display animated, scrolling, intermittent, flashing images or video at any time.

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.

Preliminary Matter

3. The appellant has indicated that he has access to a new generation of digital screens that allow the poster unit to be substantially less deep; 200mm rather than 600mm as stated in the application. He is willing to accept a condition on any consent, restricting the depth of the unit to 200mm, notwithstanding the details in the application drawings, in the interests of amenity. The Council have made their decision based on the original proposals, and there has been no opportunity for other interested parties to comment on revised proposals, consequently I will make my recommendation based on the original submission.

4. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

5. The effect of the digital advertising display on the visual amenity of the area.

Reasons for the Recommendation

6. The Council has cited conflict with Policies PG3 (Place making) and TP12 (Historic environment) of the Birmingham Plan 2031 -Birmingham Development Plan (LP) and I have taken account of those policies as a material consideration. However, the powers under the Regulations for the control of advertisements may only be exercised in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's Local Plan policies have not therefore, by themselves, been decisive.

7. The advertisement would be seen in the context of a busy commercial neighbourhood that contains a multitude of fascia and hanging signs. Moreover, it would be sited alongside a main road and adjacent to a wide railway cutting with associated bridge. The digital display would be in keeping with its immediate environment which include these large scale features.

8. From the evidence submitted, and my site visit, it is apparent that the digital hoarding would be located outside the Lozells and Soho Hill Conservation Area (CA). Whilst acknowledging that it would be seen on the approach to the CA from the west, I am satisfied that, with the form of lighting proposed, the luminance levels suggested, and the separation distance between the appeal site and the CA boundary, there would be no harm to the setting of the CA.

9. Rhodes Almshouses, at Nos 80-86, Soho Road, is a grade II listed building and sits diagonally opposite the appeal site. They are set back from the road, and whilst the hoarding would be visible in combination with them when approaching from the west, I find that given the separation distance, and angle of view between the respective structures, that the advertisement would not adversely affect the setting of the listed building. Moreover, I am satisfied that the size of the digital display, the form of illumination proposed, and luminance level of the advertisement would not be significantly different to the advertisement that is currently displayed on the site.

10. In light of the above I consider that the digital hoarding would not unacceptably harm the visual amenity of the area and, insofar as they are material, would accord with Policies PG3 and TP 12 of the LP which jointly seek to secure high quality design that does not adversely affect the settings of heritage assets. In that regard I also consider that the proposal conforms with the National Planning Policy Framework which supports well sited and designed advertisements.

Other Matters

11. I acknowledge the concerns raised by interested party in respect of 1) whether local residents and businesses have been consulted about the proposal, 2) who is paying for the proposal 3) the cost of maintenance, 4) potential distraction for drivers and pedestrians, 4) the potential for increased vandalism and graffiti. However, the Regulations make it clear that applications for advertisement consent can only be assessed on the basis of public safety and amenity. These matters, whilst noted, are not determining factors in this case. With regards to publicity the Council has indicated, in their officer's report, that a site notice was displayed which provided an opportunity for local residents and businesses to comment on the proposal.

Conditions

12. The Council has suggested that in addition to the five standard conditions set out in Schedule 2 of the 2007 Regulations that conditions should be imposed relating to the approved drawings, the brightness of the advertisement, a minimum time limit for each display, the prevention of animations, scrolling, intermittent or flashing images or videos and a scheme to manage the intensity of the illumination in accordance with details to be agreed. The appellant, in the covering letter accompanying the original application, suggested several conditions relating to, compliance with the luminance guidelines contained within 'The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements – 2015', the use of a light sensor to track the ambient light level throughout the day and control the luminance level of the digital display, the brightness of illumination, and the prevention of moving images, animations, video or full motion images.

13. The conditions suggested by the Council with respect to the brightness of the advertisement, the minimum length for each display and the prevention of animated, scrolling, intermittent or flashing images or videos are reasonable and necessary in the interests of amenity. I consider that the conditions requiring compliance with luminance guidelines contained within 'The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of

Illuminated Advertisements – 2015' combined with luminance levels being controlled by a light sensor, as suggested by the appellant would address the needs of the Council without the necessity to submit further details. I do not see the necessity for a condition listing the approved plans as the advertisement would have to be displayed in accordance with the terms of the application submitted.

Conclusion and Recommendation

14. For the above reasons, and having regard to all other matters raised, I recommend that the appeal be allowed subject to the conditions set out above.

J Gunn

APPEAL PLANNING OFFICER

Inspector's Decision

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

R C Kirby

INSPECTOR