



Appeal Decision

Site Visit made on 27 October 2020 by G Sibley MPLAN MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2020

Appeal Ref: APP/V4630/Z/20/3258401

Land on the west side of Darlaston Road, Wednesbury, Walsall WS10 7HX

- 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 Clear Channel against the decision of Walsall Metropolitan Borough Council.
 - The application Ref 20/0445, dated 21 April 2020, was refused by notice dated 1 July 2020.
 - The advertisement proposed is upgrade of existing 48 sheet adverts to support digital posters.
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Decision

1. The appeal is allowed, and express consent is granted for the display of upgrade of existing 48 sheet adverts to support digital posters as applied for. The consent is for 5 years from the date of this decision and subject to the five standard conditions set out in the Regulations and the following conditions:
 - 1) The intensity of the illumination of the signs permitted by this consent shall be no greater than 600cd/sqm luminance levels during the hours of sunrise and sunset and 300cd/sqm luminance levels between the hours of sunset and sunrise.
 - 2) The minimum display time for each advertisement shall be 10 seconds. There shall be no special effects of any kind before, during, or after the cycling of an image.
 - 3) The interval between the display of each advertisement shall not be more than 0.1 seconds and the complete display screen shall not change with visual effects between each advertisement. The two advertisements must change the display simultaneously.
 - 4) The digital displays shall not operate other than with a default mechanism to freeze an advertisement in the event of any malfunction or error.
 - 5) No individual advertisements displayed on the digital screen shall contain any images that resemble road signs, traffic lights or traffic matrix signs.

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 impact of the proposed advertisements on public safety.

Reasons

4. The two proposed internally illuminated advertisements would replace three concurrent 48 sheet externally illuminated advertisement hoardings with the central advertisement removed completely. The advertisements are located on the side of a road next to a signalled junction within a commercial area and there are a number of advertisement hoardings within the area.
5. The current advertisements do not block views of the traffic signals when approaching from the south or from the east nor are they located behind the traffic signals. The proposed advertisements would be located in approximately the same location and because of this they would not interrupt views of the traffic signals.
6. Given the height of the proposed advertisements they would not be in the skyline above the surrounding buildings and because of this the driver's eye line would not be taken much higher than the traffic signals when approaching from the south. Consequently, the vehicular user's view would not be taken away from the traffic signals, which would still be in the periphery of their eyeline when viewing the advertisements when approaching from the south.
7. The first and third current advertisement hoardings are angled which limits views of those adverts when approaching from the south or the east. The proposed advertisements would replace the first and third advertisement and would be similarly angled. When turning in from the east the splayed angle of the closest advert would be such that views of the display would be partially restricted and it would not dominate the field of vision. The advert furthest away would be more visible during the turn but I am satisfied that the distance from the oncoming vehicle would be sufficient to prevent it being an undue distraction. A similar situation would occur when driving towards the site from the south given the angle of the advertisements. This alignment would reduce the amount of time the advertisements are visible which reduces the possibility for distraction.
8. The Safety Report notes that there have been three 'slight' accidents recorded close to the junction over the past three years. There is no indication that the existing advertisements had and bearing on those accidents. Given the busy nature of the junction the record of slight incidents does not indicate that the junction is particularly hazardous, nor does it indicate that the replacement of the existing adverts with illuminated advertisements would have an unacceptable impact on highway safety. The level of illumination could be strictly controlled which would ensure the adverts would not be brighter than the traffic signals so as to ensure the traffic signals remain primary in the drivers view. Furthermore, the adverts would change every ten seconds and would be static images, as opposed to moving displays, which would further limit the potential for distraction. The change from one advert to another would be almost instantaneous and road users would not be unduly distracted by said change of adverts, having regard to their location.
9. Whilst the Planning Practice Guidance notes that advertisements near to junctions may cause danger to road users, in this instance, given the road

layout, the fact that the junction is signal controlled, and the limited harmful impact the current advertisements cause to public safety, the proposed advertisements would be acceptable in terms of their impact on public safety. Furthermore, there would be a reduction in the number of advertisements within this section of the road which would reduce the number of possible distractions to vehicular users which would be a benefit to public safety as well as the amenity of the area.

10. I have taken into consideration policy ENV36 of the Walsall Unitary Development Plan (adopted 2005) which notes that poster hoardings will not be permitted where they have a detrimental effect on public safety and the most appropriate locations for poster hoardings would be in mainly commercial areas. Given that I have concluded that the advertisements would not harm public safety and would be in a commercial location, the proposal would not conflict with this policy.

Conditions

11. The Council has suggested a number of conditions that are similarly worded to the five standard conditions set out in the regulations and in the interests of brevity I have not included them again as additional conditions.
12. The Council has suggested a condition that would require the advertisements to be removed after a 5-year period from the date the Council submitted their appeal Questionnaire. Standard conditions relating to express consent state that the consent is for a period of 5 years, after which an advertisement would continue to benefit from deemed consent unless a condition requiring its removal was imposed. However, there is nothing to indicate that the impact of the advertisements would become unacceptable or cause injury to amenity or public safety after 5 years and I see no reason why such a condition is necessary in this instance.
13. A condition requiring the development to be built out in accordance with the submitted plans is not necessary because this decision grants express consent, for the details applied for. As such, an additional condition is unnecessary.
14. A condition is necessary to control the level of illumination in the interests of public safety. Similar conditions have been suggested by both parties. I have used a revised version of the condition suggested by the Council because it specifically states the levels of illuminance at specific times whilst the appellant's condition referred to a document which may be subject to revision in the future.
15. A condition is necessary to control the time each advert is displayed for in the interest of public safety. Both parties have suggested similar conditions and the interest of brevity and precision I have used the appellant's suggested condition which simply notes that there shall be no special effects.
16. A condition is necessary to ensure that the interval between advertisements shall not be more than 0.1 seconds in the interest of public safety. I have added additional wording to the condition to ensure that both advertisements change the display at the same time, as recommended within the Safety Report, in the interests of public safety. For the same reason conditions are necessary to freeze the advertisements in the event of any malfunction or error and to ensure that no advertisements are displayed that contain any images

that resemble road signs, traffic lights or traffic matrix signs in the interest of public safety.

17. The appellant has suggested a condition that would prohibit the sequencing of messages relating to the same product. The sequencing of the same advert would not cause harm to public safety nor would it harm the amenity of the area. As such the suggested condition is not necessary and I have not included it.

Conclusion

18. The proposed advertisement would not cause harm to public safety, therefore, for the reasons given above and having had regard of all other matters raised, I recommend that the appeal should be allowed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be allowed, subject to the standard conditions and the additional conditions set out.

Chris Preston

INSPECTOR