



Appeal Decision

Site visit made on 26 November 2020

by Martin H Seddon BSc MPhil DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Appeal Ref: APP/F5540/Z/20/3258403

Land at Chiswick Roundabout, junction of Gunnersbury Avenue and Great West Road, London W4 5QJ.

- 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 Miss Melissa Quaranta against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00505/EY/AD25, dated 28 February 2020, was refused by notice dated 7 July 2020.
 - The advertisements proposed are the erection of three internally illuminated poster panel hoardings.
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Decision

1. The appeal is allowed, and express consent is granted for the display of the three internally illuminated poster panel hoardings as applied for. 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 maximum luminance for the advertisements shall not exceed 400cd/m² during the day and 300cd/m² from dusk to dawn.
 - 2) Prior to operation the advertisements shall be fitted with a light intensity monitoring sensor to ensure the illumination intensity is dimmable to take account of ambient light conditions and comply with the maximum light intensity. The monitoring sensor shall thereafter be retained and maintained in good working order during the course of the display.
 - 3) The displays on all the panels shall be static and two dimensional only, with no moving or apparently moving images, devices, wording, or emblems.
 - 4) The advertisements displayed on each panel shall not change more frequently than once every 30 seconds.
 - 5) Any change in advertisement display shall be instantaneous.

Preliminary Matters

2. The application form is dated 28 February 2020. The appellant has advised that the submission date was actually 4 March 2020. Consent was sought for a 5 year period from 4 March 2020.

3. The proposed advertisements would be located in the same positions and would be of the same size, depth, and width as those previously permitted (ref: 00505/EY/AD18) in 2014. That is 2 landscape style digital hoardings at 3.5 x 14 m, and one portrait style digital hoarding at 7.5 x 5 m, all 2.8 m above ground level.
4. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 make it clear that advertisements are subject to control only in the interest of amenity and public safety. The Council has drawn my attention to development plan policies from the London Borough of Hounslow Local Plan, the London Plan (2016) and the Intention to Publish London Plan which it considers to be relevant to this appeal. The London Plan 2021 has now been published and it supersedes the previous London Plan and the Intention to Publish London Plan. However, whilst S38(6) of the Town and Country Planning and Compulsory Purchase Act 2004 does not apply to advertisements, I have taken the relevant policies in the Local Plan and London Plan 2021 into account when material to this appeal.

Main Issue

5. The main issue is the effect on the proposal on public safety, in particular highway and pedestrian safety.

Reasons

6. The appeal site is an almost triangular area of vacant land bounded by Gunnersbury Avenue, Larch Road, and the Great West Road. It is next to the large Chiswick Roundabout, which is over-sailed by the M4 motorway. The site has been the subject of previous advertisement consents and also permission granted in 2012 for a high office building known as the "Octopus Development". Express consent for 4 building mounted media screens was granted on appeal in 2010 (ref: APP/F5540/H/10/2130674) prior to the Octopus Development receiving planning permission.
7. Large, illuminated advertisements exist on the land at Chiswick Roundabout, and at the nearby stretch of the M4 motorway. The site is within Hounslow's Golden Mile which is centred upon the A4/Great Western Road as an important strategic corridor linking Heathrow airport with central London. Buildings around the site are mostly in commercial use, with the busy road system and elevated section of the M4 defining its character. The confluence of roads around the site and Chiswick roundabout means that drivers often have to switch lanes and it is important that external distraction is avoided.
8. The Council has advised that Highways England was consulted on the proposal and requested that several conditions be attached to any approval. However, Transport for London (TfL) objected on highway safety grounds. TfL manage the A4 Great West Road and the North Circular Road. Its objection was based upon information contained within the appellant's submitted Technical Note as part of the application for express consent.
9. Annual personal injury accident (PIA) data was submitted by the appellant with the application for express consent for the period 2011-31 May 2019. This showed a general decline from a peak of 29 accidents in 2011 to 10 in 2018, although 7 had been recorded in the first 5 months of 2019. TfL considered that the technical note did not address any change in collision severity, any

- allowance for an overall reduction in the background trend in collisions across London, or any comparison with the average collision rate for similar sites in London.
10. TfL indicated that there was no breakdown of collision numbers/associated severity for separate user groups, or collision factors, such as at times of darkness or wet conditions. It added that there was no comparison with data for London and where the accident rate is higher than average at the appeal site. There was also no explanation of how the proposed advertisements would not impact further on that accident rate. Overall, TfL considered that inadequate information had been provided on which to make a reasoned decision regarding the effect of the proposal on highway safety. TfL also advised that it could be argued that there was a prominent reduction in the number of collisions in the years following the stated removal of the advertisements and it considered that more detailed analysis was required to form a robust opinion.
 11. TfL also indicated that there was no assessment of accident data for times when the previously consented advertisements were not in place. It noted that the advertisements stayed in place for some months after the temporary consent expired in January 2016.
 12. The appellant has submitted a Highway Proof of Evidence (the proof) with the appeal. This sets out the relevant planning history and updated the PIA data to include the period 31 May 2019 to 1 January 2020. The period 2014 to 2016 was identified as the time when the 2014 consent was valid, but the hoardings were in place up to August 2018. The proof indicated that there was no evidential link between the presence of the approved advertisements and the prevalence of accidents in the vicinity of the appeal site. Moreover, there was a trend of the number of PIAs falling in the most recent years of analysis with 16 in 2017 and 10 in 2018.
 13. TfL contended that the internally illuminated signs may be over prominent, especially during darkness and notwithstanding the proposed limit on brightness. TfL also considered that it was not clear if the previously consented advertisements were of a similar size, location, or amount of illumination. Table 5.2 of the appellant's proof of evidence provides an analysis of accident severity and daylight/darkness periods. Consistently, per annum, more accidents took place in daylight. The number of accidents in darkness or their severity shows no consistent pattern from 2011-2019, suggesting that illumination of the advertisements during darkness was not a significant factor in PIA rates.
 14. As mentioned above, the appellant has confirmed that the proposed advertisements would be located in the same positions and would be of the same size, depth, and width as those previously permitted in 2014. However, the application form states an illumination level of 600 cd/m², whereas the previous maximum permitted levels were 400 cd/m² during the day and 300 cd/m² from dusk to dawn. Nevertheless, the illumination levels may be controlled through the imposition of a condition.
 15. Table 5.3 of the proof provides analysis of accident severity relating to pedestrians, cyclists, and motorcyclists. The number of PIA's were low with no clear indication that presence of the advertisements caused any significant increase in PIA incidence.

16. The appellant indicates that none of the accident data referred to driver distraction – outside vehicle, or the advertisements as a causal factor in a PIA. Nevertheless, it is apparent that in several cases drivers were not contacted for a comment, and also failure to look properly was a frequent reason given for a collision. However, despite this I consider that overall, the evidence suggests no significant correlation between the incidence of PIAs and the presence of the advertisements at the site from August 2014 to August 2018.
17. Although TfL requested a comparison of accident rates with inner and outer London locations, I consider that this would be unlikely to assist with an assessment of the impact of the advertisements on PIAs at the appeal site. That is because, in this instance, it is possible to compare, in a specific manner, PIA rates before, during and after advertisements of a similar nature were installed at the appeal site.
18. The National Planning Policy Framework re-iterates that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Planning Practice Guidance (the Guidance) advises in what locations advertisements are most likely to affect public safety on roads. Examples given include at junctions, roundabouts, pedestrian crossings, or other places where local conditions present traffic hazards.
19. The Guidance also indicates the main types of advertisements which may cause a danger to road users. The proposed siting of the advertisements means that they would not impair sight lines at bends in the road system. TfL considered that advertisement 2 would be unacceptable because it would be directly behind traffic signals. However, the appellant indicates that advertisement 2 would be set back from the road carriageway, and in view of the size of the advert relative to the signal head, the advertisement would not interfere with or distract a driver's view of it. The stop line for drivers approaching the signal head would also be situated some-way back from the advert, beneath the M4 flyover and consequently the view of the traffic lights would not be impeded by the advert. Therefore, I consider that the siting of advertisement 2 would not reduce the clarity or effect of the traffic signals as required by the Guidance. The Guidance also refers to internally illuminated signs, but I am satisfied that any glare, dazzle, or distraction from the proposed advertisements could be mitigated by means of appropriate conditions.
20. Since the previous advertisement consent in 2014 (ref: 00505/EY/AD18), the Mayor of London's Vision Zero Agenda, which seeks to eliminate death and serious injury on London's road network by 2041, has been set out in the Mayor's Transport Strategy 2018. It is also referred to in the recently published London Plan. Policy T4 of the London Plan states that development proposals should not increase road danger.
21. Paragraph 5.11 of the Planning Officer's Delegated Report states that as well as an unacceptable impact on road safety the advertisements: *"...would also detract from the street scene and impinge upon the comfort of pedestrians and other vulnerable road users, at a gateway site on the Great West Corridor Opportunity Area where reductions in the quality of the urban realm cannot be supported."*
22. The effect on amenity is not a reason included in the Council's decision notice for refusal of the application. However, this is a busy commercial area dominated by the road system and where large advertisements are part of its

urban character. Having assessed the Healthy Streets Indicator, included as Fig.5.1 of the appellant's proof, and the PIA data, I consider that the presence of the advertisements would be unlikely to cause any significant harm to the comfort of pedestrians or other road users or to conflict with the objectives of the Vision Zero Agenda and London Plan policy T4.

Other Matters

23. The appellant has submitted examples of other advertisements which have been granted consent in the London area. However, I have determined this appeal on the individual merits of the proposal, its particular site circumstances and having regard to national planning policy and guidance and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

Conditions

24. The Council and the appellant have been consulted on draft conditions which have been based on those imposed on the previous express consent (ref: 00505/EY/AD18) and the conditions suggested by Highways England. In addition to the 5 standard conditions required under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, conditions are imposed to control the intensity in illumination of the advertisements and prevention of moving displays in the interests of highway safety and to avoid any undue driver distraction.
25. Highways England requested a maximum illumination level of 300 cd/m. The application was described by the Council in the Delegated Report as having the same illumination level as the previously consented advertisements under ref: 00505/EY/AD18. Condition No.7 of that consent states that the maximum luminance for the advertisements shall not exceed 400cd/sqm during the day and 300cd/sqm from dusk to dawn. The reason given for the condition was that it was in the interests of minimising any adverse effects upon the nearby residents and to obviate any hazard to public safety, in accordance with stated development plan policies.
26. The appellant's highway proof of evidence stated that the proposed adverts would be the same size, depth, width, and illumination levels as those previously approved in 2014 and includes the officer report for consent ref: 00505/EY/AD18 and condition no.7 at Appendix 1. However, the application form and appellant's appeal statement refer to a proposed maximum illumination level of 600cd/m². I consulted the appellant and Council on a suggested maximum illumination level of 300cd/m². The Council did not respond, but the appellant suggested a maximum luminance of 300cd/m² in the evening and 600cd/m² in the daytime. Although other consents at the site have referred to 600cd/m² I consider that condition No.7 of consent ref: 00505/EY/AD18 should be reiterated. That is because it formed a basis for the highway proof of evidence conclusions, and assessment of historic accident data when the maximum daytime luminance would have been 400cd/m² rather than a higher luminance of 600cd/m².
27. Conditions have been suggested to require the appellant to follow the principles of the Traffic Signs Regulations and General Directions and Planning Practice Guidance. However, that would be unnecessary duplication, as any statutory requirements arising from the documents must be met anyway.

Conclusion

28. I conclude that the proposal would have no significant harmful effect on highway and pedestrian safety and express consent should be granted for the three internally illuminated poster panel hoardings.

Martin H Seddon

INSPECTOR