The Planning Inspectorate

Appeal Decision

Site Visit made on 26 July 2021

by Mr James Blackwell LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 03 August 2021

Appeal Ref: APP/P4605/Z/21/3275104
The New Aston Social Club, Aston Hall Road, Nechells, Birmingham B6 7JU

- 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 Ian Bullingham of Engage Outdoor Media against the decision of Birmingham City Council.
- The application Ref 2021/02269/PA, dated 13 March 2021, was refused by notice dated 26 April 2021.
- The advertisement proposed is a free-standing media tower with a single digital 96 sheet.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since determination of the planning application, the 2019 iteration of the National Planning Policy Framework (Framework) has been superseded. I do not consider that the updates to the Framework materially affect its content insofar as it is relevant to the main issues of this appeal. I have therefore determined this appeal with regard to the latest version and am satisfied that this approach will not prejudice the parties.

Main Issues

3. The main issues are the effect of the proposal on amenity and public safety.

Reasons

Amenity

4. The appeal site comprises an area of hardstanding between the Aston Social Club and the elevated Aston Expressway A38(M) (AE). The immediate area is predominantly commercial and includes a mixture of industrial units and warehousing. Buildings in the vicinity generally sit below the elevated carriageway of the AE, and subject to a few exceptions (including a church spire and a number of tower blocks further away in the distance), the topography of built form in the locality means the views and skyline along the section of the AE closest to the appeal site are relatively open and uninterrupted.

5. The display screen, which would have a width of approximately 12.4m and a height of approximately 3.2m, would be elevated above the AE and directed towards motorists travelling along the AE from the Gravelly Hill "Spaghetti" Junction towards the Park Circus roundabout. There are no comparable adverts

to the one proposed in the immediate vicinity. Notwithstanding any street lighting and road signage, given most of the built form around the appeal site sits lower than the elevated AE, the advertisement would appear largely isolated and alien in the skyline, which would interrupt the sweeping open views from the AE in both directions. This would be harmful to the visual amenity of the area.

6. Whilst I note the examples provided by the appellant of comparable adverts in other prominent locations adjacent to other national motorways as well as others further along the AE, the appeal site can be distinguished from these sites due to the prevailing low topography of built form in the vicinity of the appeal site, which sits below the elevated AE. This means an advert of the scale proposed cannot be accommodated in this location without interrupting the open views across the surrounding landscape.

7. For these reasons, I consider the proposed advert would significantly harm the visual amenity of the area. Whilst development plan policies are not determinative in my assessment of the proposal, they are nonetheless material to the consideration of the main issues. I have taken account of Policy PG3 of the Birmingham Development Plan (2017)[1] and saved Policies 3.14C and 3.14D of the Birmingham Unitary Development Plan (2005)[2] which require development to respond to local character through high quality design which is appropriate in scale and design. I have also had regard to guidance in the Council's supplementary planning document entitled "Location of Advertisement Hoardings (DC Guidelines No.40)" (Advertisement Hoardings SPG) and the Framework (2021), both of which highlight the need for adverts to avoid detriment to public amenity.

Public Safety

8. The advert would be located along the AE between the Gravelly Hill "Spaghetti" Junction to the north and the Park Circus Roundabout to the south. This is a very busy carriageway on a major strategic route in and out of the city, comprising 7 lanes without any central barrier. This section of road adopts a contraflow system and includes a number of overhead gantries which direct motorists to the lanes which are in use in each direction.

9. The Planning Practice Guidance is clear that advertisements at junctions or points of access to a highway risk causing more danger to road users. Whilst I appreciate the advert would not be located directly at a junction or point of access, it would still be located in close proximity to the junctions mentioned above. Motorists would either have recently joined or else be preparing to exit the carriageway, which means many will be manoeuvring between lanes. As a result, significant caution is needed before introducing anything that could distract drivers' attention from this section of road.

10. As highlighted above, the advert would be a dominant and isolated feature of the skyline, which would appear visually prominent to road users along the AE. When factoring in its illumination, I consider it would distract motorists by drawing attention away from the carriageway, as well as the gantry signs above which are critical to the regulation of traffic along this stretch of road in such close proximity to major junctions. Given the heavy traffic and high level

[1] Birmingham Plan 2031, Birmingham Development Plan, Adopted 2017
[2] The Birmingham Plan, Birmingham Unitary Development Plan 2005

of manoeuvring between lanes along this stretch, I consider that such distraction would compromise highway safety.

11. For these reasons, I consider the proposed advert would significantly harm public safety. I have had regard to Policy PG3 of the Birmingham Development Plan (2017) and the Council's Advertisement Hoardings SPG, which seek to ensure advertisements do not lead to any safety issues. The SPG is also explicit that the siting of advertisement hoardings will not normally be acceptable where visible along the A38 Expressway due to issues of highway safety. Similarly, I have had regard to the Framework which highlights the need for advertisements to avoid detriment to public safety.

Other Matters

12. I note accident records do not show any prevalent history of accidents along this stretch of road. Nonetheless, this does not mean that the introduction of adverts in this location would not lead to a risk to highway safety.

13. Given that advertisement applications are assessed with regard to impact on amenity and public safety only, the potential benefits of the proposal in terms of sustaining the Aston Social Club cannot weigh on my decision.

14. Finally, I acknowledge examples highlighted by the appellant of other adverts along the AE which have either been consented or else where no highways objection was received. Whilst each case must be considered on its own merits, I do not have sufficient details nor traffic data before me to properly consider any direct comparisons between these examples and the appeal scheme. Even if these sites do share commonalities with the appeal site, the appellant has itself highlighted the potential safety risks associated with the location of many of these adverts. As such, they do not alter my conclusions regarding the identified harm to public safety in any event.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

James Blackwell

INSPECTOR