



Appeal Decision

Site visit made on 19 October 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2021

Appeal Ref: APP/P4605/H/21/3275702

Shri Guru Ravidass Bhawan, Union Row, Birmingham B21 9EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Clear Channel (Mr Ben Porte) against the decision of Birmingham City Council.
 - The application Ref 2021/03026/PA, dated 6 April 2021, was approved on 19 May 2021 and planning permission was granted subject to conditions.
 - The development permitted is display of 1no. internally illuminated digital LED 48 sheet advertising panel.
 - The condition in dispute is No 8 which states that: The advertisement hereby permitted must comply with the following: -
 - The interval between successive displays shall be instantaneous (0.1 seconds) with no special visual effects of any kind to be permitted to accompany the transition between any two successive adverts no fading, swiping or other animated transition methods. -
 - The advertisement shall not include special visual effects of any kind during the time that any message is displayed and must not include animated, flashing, scrolling, intermittent or video elements.
 - The advertisement shall have a minimum display time of 8 seconds and the complete screen display must change instantly.
 - The advertisement shall not have message sequencing or any changing light patterns and it shall be limited to a two-dimensional display only.
 - The advertisement shall not emit noise, sound, smoke, smell or odours and shall include a default mechanism that will freeze the sign in one position if a malfunction occurs.
 - The advertisement shall not include features/equipment which would allow interactive messages/advertisements to be displayed. -
 - The advertisement shall be equipped with a dimmer control and a photocell which shall constantly monitor ambient light conditions and adjust sign brightness accordingly. The brightness of the illumination shall be no greater than 600cd/m²
 - The reason given for the condition is: : In order to safeguard the visual amenity of the area and ensure that the advertisement will not cause distraction to drivers using the adjacent highway in accordance with Policies PG3 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development from the Decision Notice as it is far more concise than the description on the application form. I note that the appellant has used the same on the appeal form. I am therefore satisfied that neither party is prejudiced by this course of action.

3. The Council have referenced policies within the Birmingham Development Plan (2017). I have taken this into account where relevant, but the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) clearly states that issues to be addressed should only include amenity and public safety, which is reiterated by the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the PPG).

Background and Main Issue

4. The application subject to this appeal was approved by the Council, subject to conditions. The appellant has appealed against a section of Condition 8, which restricts the brightness of any illumination of the advertisement. The reason given in the Officers Report and Appeal Statement relates to highway safety. I therefore consider the main issue is the effect on public safety, with particular regard to highway safety.

Reasons

5. The appeal site is located within an area of commercial and residential development and is the side gable wall to No 26 Grove Lane but is a shared boundary adjacent the Temple. The digital poster advertisement would be visible on the approach along Grove Lane, which is part of the allocated Soho Lane District Shopping Centre.
6. Guidance is given in Planning Practice Guidance (PPG). Paragraph 067 says that all advertisements are intended to attract attention, but those at points where drivers need to take more care are more likely to affect public safety. The PPG adds that there are less likely to be road safety problems if the advertisement is on a site within a commercial locality and if not on a skyline. I accept that the area around the junction is predominantly commercial and the sign would not be on the skyline.
7. However, PPG paragraph 068 also lists the main types of advertisement which may cause danger to road users. These include those which because of their size or siting would obstruct or confuse a road-user's view or reduce the clarity or effectiveness of a traffic sign or signal. In addition, it refers to internally illuminated signs (incorporating either flashing or static lights), including those using light emitting diode (LED) technology, those directly visible from any part of the road, and those subject to frequent changes of display.
8. This does not mean that all internally illuminated sign using LED technology would be harmful to public safety. However, Grove Lane is a well trafficked road. It has a straight alignment where it passes the appeal site, but the numbers of pedestrians and vehicles using the area requires drivers to concentrate with due care and attention to other road users.
9. In this context, if the poster advertisement were not restricted in terms of the level of illumination, I find that the advertisement, with frequent changes of display, could unduly distract and confuse the eye of motorists when road users are required to exercise care and attention. I find that the approach of the Council, in restricting the illumination of the approved panel, have addressed the issue in a fair and reasonable manner. Overall, I find that if the panel were allowed to increase illumination, the proposal would be harmful to public safety, arising from the unacceptable impact of the proposed advertisement on highway safety referred to above.

10. I have taken into consideration the appellant's comments regarding the Institute of Lighting Professionals Professional Lighting Guide 05, but I find there is no requirement to instantly take the maximum proposals as a given and find the existing Condition to be fair and reasonable, and acceptable in finding an acceptable balance for the lighting in that area.
11. Based on the above, I consider that the Condition is reasonable and necessary in its current form in order to protect public safety, in line with advice given in the National Planning Policy Framework. It is drafted in a precise manner and is enforceable, reasonably imposed and consistent in respect of guidance in the Framework

Conclusion

12. For the reasons given, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR