



Appeal Decision

Site visit made on 30 November 2021

by R Walmsley BSc, MSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2022

Appeal Ref: APP/P4605/Z/21/3282437

Unit 3 Chancel Way Industrial Estate, Chancel Way, Birmingham, B6 7AU

- 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 Ocean Outdoor UK Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/04832/PA, dated 26 May 2021, was refused by notice dated 14 July 2021.
 - The advertisement proposed is replacement of existing 96 sheet internally illuminated advertisement panel (3m high x 12m wide approx) with a static LED digital display in landscape format (4m high x 8m wide).
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Decision

1. The appeal is dismissed.

Main Issues

2. These are the effects of the proposal on amenity and public safety.

Amenity

3. The advertisement would be within a commercial area which the Planning Practice Guidance (PPG) encourages. However, the sign would be in a prominent location, clearly visible from the motorway and in stark contrast to the sky which would be its backdrop. The sign's prominence would be amplified by its LED design and interchangeable images making it an intrusive and overbearing feature. Furthermore, the sign's illumination would draw the eye away, creating visual clutter. This would be especially felt in the dark or in dull conditions.
4. There has been a history of signage on the site and the appeal proposal would replace an existing advertisement. Nonetheless, being digital, the appeal proposal would be materially different. Irrespective of controls on light levels and image loops, a digital screen introduces a permanent illumination that would appear conspicuous. The prominent position of the sign and its visual separation from buildings exacerbates this.
5. And so, despite the sign being close to a major transport corridor and in a commercial area, I find that the presence of a large and prominent digitally illuminated display would be harmful to visual amenity.
6. The Council has drawn my attention to Policy PG3 of the Birmingham Development Plan and Saved paragraphs 3.14 to 3.14D of the Birmingham Unitary Development Plan which seek to protect visual amenity. As I have

concluded that the proposed advertisement would harm amenity, it therefore would not accord with these policies.

Public safety

7. The advertisement would be in a location where drivers' full attention is needed to read and adhere to the gantry information and navigate the motorway. Owing to the sign's prominent position, its illumination and transition of images, the advertisement would divert driver's attention away from the road at a place where more care is needed. Distracted drivers risk collisions. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 suggests that advertisements which incorporate moving elements may cause a danger to road users. In this case, the transition of images, whilst limited to 3 transition per 60 seconds, would be a hazardous distraction.
8. There are few reported accidents and lower traffic flows around the appeal site compared with signs at other motorway locations and so drivers may be better able to navigate the motorway without risk of collision. However, as the appellant acknowledges, roadside advertising can still be a distraction to some road users. There is also the unforeseeable nature of human behaviour which demands a careful assessment of each proposal, based on its own merits.
9. The digital nature of the sign and its moving elements would attract greater attention compared with the existing sign. The Inspector deciding appeal APP/P4605/Z/20/3260183 surmised that the sign would be a sufficient distance from the gantry to avoid distraction but the material difference in the appearance of a digital versus non-digital sign means that the appeal proposal would be a greater distraction to drivers than the sign previously allowed. Furthermore, with the advert more prominent than existing signage, evidence from the past cannot be relied on to predict incidents in the future. The difference between the two signs is material, with the appeal proposal unduly diverting drivers' attention from the important information on the gantry. As the PPG suggests, advertisements at points where drivers need to take more care are more likely to affect public safety.
10. I have had regard to the examples before me of other digital signs in proximity of the motorway. I have no evidence of the Council granting consent for these signs or of the Highways authority considering them acceptable to hold them in favourable regard. In any case, the signs are further from a gantry than the appeal proposal and given that the proximity of signage to the gantry is of concern, the examples do not set a favourable precedent.
11. I have had regard to the suggested conditions which could be applied to any consent to control illumination and animation. However, these conditions would not mitigate the harm that I have found relating to the transition of images and principles of digital display.

Conclusion

12. For the reasons given above, I conclude that the proposed advertisement would be detrimental to visual amenity and public safety and therefore the appeal is dismissed.

R Walmsley INSPECTOR