
Appeal Decision

Site visit made on 7 April 2022

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th May 2022

Appeal Ref: APP/B3410/Z/21/3289412

Units 1 and 2 Paget Street, Burton Upon Trent, DE14 3TQ

- 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 Direct Posters Outdoor against the decision of East Staffordshire Borough Council.
 - The application Ref P/2021/00950, dated 1 July 2021, was refused by notice dated 27 October 2021.
 - The advertisement proposed is upgrade of existing 48 sheet advert to support digital poster.
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Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement 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 additional conditions set out below:
 - 1) The intensity of the illumination of the advertisement permitted by this consent shall be no greater than 100cd/m².
 - 2) The digital display permitted by this consent shall be switched off between the hours of 2300 and 0700.
 - 3) The advertisement shall not display any moving or flashing images or sequencing of images over more than one advert.
 - 4) The advertisement shall not change more than once every 10 seconds and shall have an instantaneous changeover between adverts of no greater than 1 second.

Procedural Matter

2. The submitted plans do not accurately reflect the existing elevation of the building upon which it is proposed to display the advertisement. The equipment cabin shown no longer exists, the additional advert above the one to be replaced is half the size of that shown and some new smaller signs have been added. However, the size and position of the advertisement board in question appears to be shown correctly. For the avoidance of doubt, I have only considered the proposed plan in so far as it relates to the size and position of the digital poster.

Main Issue

3. The main issue is the effect of the proposed digital advertisement board on amenity.

Reasons

4. It is common ground that the existing un-illuminated 48 sheet advert has been in place for over 10 years and has the benefit of deemed consent. This forms part of the visual amenity of the area. It is also common ground that subject to appropriate conditions, to prevent flashing images and to control the sequencing of displays, the advertisement would not be detrimental to public safety.
5. It is proposed to replace the existing poster board, which has a thick chunky white box frame, with a modern slim line digital advertisement board of the same height and width. The new advert would require minimal maintenance and would have a much cleaner, simpler, higher quality appearance than a paper and paste board.
6. Although the site is accessed via Paget Street, the side elevation of the commercial building upon which the digital poster would be mounted faces Uxbridge Street, close to the busy traffic light controlled crossroads with the A5189 Evershed Way. Despite being adjacent to a busy main road the immediate surrounding area is predominantly residential.
7. I acknowledge the close proximity of the advert to 302 Uxbridge Street, the windows of which all face onto busy streets, a car park or industrial buildings. Despite visiting the site during daylight hours, I observed that there are large street lights all along the A5189 Evershed Way, together with 4 sets of traffic lights and pedestrian crossing points. It is therefore reasonable to conclude that this area is well lit at all times of day and night.
8. The digital advert would inevitably appear brighter than the existing un-illuminated paper one which is to be replaced. The Light Spill Diagram submitted with the Appellant's Statement of Case, confirms that acceptable post curfew limits would be breached by the advertisement, even when operating at 100cd/m². Having regard to these findings, the Appellant has suggested conditions restricting the maximum level of luminance to 100cd/m² outside of curfew limits and requiring the display to be switched off completely between the curfew limit of 2300hrs and 0700hrs.
9. In this particular case, having regard to the evidence submitted, the urban environment within which the site is located and the proximity of residential properties, I consider that the advert upgrade would be acceptable in terms of amenity, subject to appropriate conditions.
10. In reaching this view I have taken into account policy DP9 of the East Staffordshire Borough Council Local Plan, which states that advertisements will normally be granted where they do not, amongst other things, impact upon the amenity of immediate neighbours. The proposal does not conflict with this policy or the National Planning Policy Framework, both of which are material considerations.

Conditions

11. The standard advertisement conditions are necessary in the interests of safeguarding amenity and public safety. Due to the proximity of residential properties conditions are also reasonable and necessary to ensure that the advert retains a low level of luminance and that the display is switched off over night. Finally, conditions to ensure that there are no flashing or moving images are necessary in the interests of both amenity and public safety.
12. The Council has suggested a condition requiring that the advert is displayed in accordance with the submitted plans. However, this is not necessary as my decision grants express consent, not planning permission. Accordingly, an application cannot be made under Section 73 of the Act for minor material amendments.

Conclusion

13. For the reasons given above I conclude that appeal should be allowed.

Rachael Bartlett

INSPECTOR