



Appeal Decision

Site visit made on 3 May 2022 by G Sibley MPLAN MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2022

Appeal Ref: APP/C4615/Z/22/3291971

Unit B1, The Boulevard, Brierley Hill DY5 1SY

- 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 Lidl Great Britain Limited against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P21/1855, dated 30 September 2021, was refused by notice dated 11 January 2022.
 - The advertisement proposed is 1 No internally illuminated totem sign.
-

Decision

1. The appeal is allowed and express consent is granted for the display of 1 No internally illuminated totem sign 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 of any portion of the sign face(s) hereby approved shall not exceed 580 candelas per square metre.
 - 2) The sign hereby approved shall not be illuminated by intermittent or flashing lighting.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Council issued a split decision and express consent was granted for 3 no. internally illuminated fascia signs but refused consent for 1 no. internally illuminated totem sign and it is that advertisement which is the subject of this appeal. The application form stated that 4 no. Lidl Building mounted entrance signage signs units were originally applied for but only 3 no. were permitted. The parties have confirmed that during the determination of the application revised plans were submitted that removed the fourth sign and a separate plan was drawn up for the totem sign. Given that this is what was before the Council when it made its decision, I have determined the appeal on this basis. The description of the advertisement proposed in the banner heading above has therefore been taken from the Council's Decision Notice, rather than the application form, as this defines the part of the proposal refused consent.

4. I have taken the address in the header above from the Council's Decision Notice as this refers to the specific retail unit where the advertisement is sought to be installed. The address used in the application form referred to the company that had previously occupied the unit, which is no longer correct. Consequently, I am satisfied that no party would be prejudiced by this.

Main Issue

5. The Council raised no objection in relation to public safety or aural amenity, subject to conditions, and from the submitted evidence, I have no reason to disagree with those findings. Consequently, the main issue is the effect of the proposed advertisement on visual amenity.

Reasons for the Recommendation

6. The proposed totem sign would be located next to the vehicular entrance to the car park in front of the Lidl building. This building is located via a roundabout close to the entrance to Merry Hill Shopping Centre which is a retail park. Around the outside of the retail park are several large individual retail units and the building is representative of this. As is to be expected within a retail park there are large advertisements located above the units. Moreover, there are several large illuminated and non-illuminated totem signs across the retail park. Accordingly, there is a wide variety of advertisements in terms of both scale and appearance across the retail park.
7. When approaching this site along The Boulevard, as cars or pedestrians enter the retail park, there are several similar totem signs along this section of the road. Moreover, these signs are typically colourful to reflect the branding of the company that they represent. Consequently, the brightly coloured internally illuminated totem sign would not appear out of context within this setting. Given that the totem sign would be significantly smaller than the associated retail unit and would be similar in scale to the other totem signs locally, it would not appear disproportionately large for the area.
8. The proposed control over the level of luminance as well as the overall limited scale of the proposed sign, in comparison to the surrounding development, would ensure the sign would not visually dominate the area. Furthermore, the sign would be located a significant distance from the other totem signs near to the site as well as set back from the signs around the building itself. Consequently, this would ensure that the cumulative effect of this and other advertisements would not dominate the area. Additionally, the totem sign would be shared between the two retail units adjacent, and would subsequently be viewed alongside both units and the associated advertisements. The shared use of this sign would limit the spread of advertisements in the area. Overall, therefore, I consider that the proposed totem sign would not appear visually prominent within this area.
9. The Council has adopted a Shopfront and Advertisement Supplementary Planning Document (SPD) (adopted 2017) and has also provided two Planning Guidance Notes (PGN). Planning Guidance Note 11: Advertisement Display Guide (PGN 11) deals with display of advertisements, and Planning Guidance Note 18: Merry Hill Shopping Centre: Guidelines for the Display of Advertisements (PGN 18) provides guidelines for the display of advertisements at Merry Hill Shopping Centre. Both refer to totem signs but give different guidance on them. I have limited information about the status and degree of

consultation carried out for the PGNs but note that they are of considerable age and predate both the 2007 Regulations and the SPD. I therefore consider that they are a relevant factor but of limited weight, whereas the SPD is of greater weight as the more recent document, albeit still several years old.

10. The SPD sets out that totem signs should be no more than 4 metres in height unless in exceptional circumstances due to their potential for adverse visual impacts. I have found however that in this particular context, the size and scale of the proposal mean that it would not result in the adverse effects which the SPD is concerned with, and that it would not harm visual amenity. I do not consider the lack of harm to be an exceptional circumstance, however given that the proposal would not harm amenity, as required by the Regulations, I find that any perceived conflict with the SPD is not of sufficient weight to refuse consent for the proposal.
11. Therefore, the scale and appearance of the totem sign would not harm the visual amenity of the area. I have taken into account policy D12 of the Dudley Borough Development Strategy (adopted 2017) which seeks to protect amenity and so is material in this case. Given I have concluded that the proposal would not harm amenity, the proposal does not conflict with this policy. Nor would it be the type of poorly sited and designed advertisement that the National Planning Policy Framework seeks to resist.

Conditions

12. Further to the five standard conditions set out in the Regulations several additional conditions have been suggested by the Council. A condition setting out the duration of the consent is not necessary as this is set out within the decision above. Conditions controlling the level of luminance and ensuring the sign would not be illuminated by intermittent or flashing lighting are necessary in the interest of amenity and public safety given that the site is located next to a roundabout where manoeuvres would have to be undertaken.
13. A condition requiring the proposal be carried out in accordance with the submitted plans would not be necessary as express consent is granted only for the advertisement as applied for.

Conclusion and Recommendation

14. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to the five standard conditions and the additional conditions above.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

15. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall allow the appeal subject to conditions.

L McKay

INSPECTOR