



Appeal Decision

Site visit made on 24 October 2022 by Tom Bennett BA(Hons) MSc

Decision by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2022

Appeal Ref: APP/P4605/Z/22/3302106

Corner of New Town Row and Princip Street, Birmingham, B4 7BA

- 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 Mercia Outdoor Advertising Limited against the decision of Birmingham City Council.
 - The application Ref 2022/02151/PA, dated 22 February 2022, was refused by notice dated 6 May 2022.
 - The advertisement proposed is for the display of 2no. internally illuminated digital advertisement hoardings.
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Decision

1. The appeal is allowed and express consent is granted for the display of 2no. internally illuminated digital advertisement hoardings 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 in the attached Schedule.

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. There is some variation between the original description of the advertisement as shown on the application form and that used by the Council on the Notice of Decision. I have used the description of development as shown on the decision notice as a more accurate and detailed description of the proposal.
4. The Council has drawn my attention to the policies it considers to be relevant to this appeal. I have taken these into account as a material consideration where relevant. However, the powers to control advertisements under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) may be exercised only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) reiterates this approach.

Main Issue

5. The Council has raised no concerns regarding public safety in this case and from the evidence before me I see no reason to disagree. Therefore, the main

issue is the effect of the proposed advertisement on the visual amenity of the area.

Reasons for the Recommendation

6. The appeal site is located on the corner of New Town Row and Princip Street alongside the Birmingham and Fazely Canal. The area is of mixed character with predominantly residential use surrounding the appeal site with numerous high-rise blocks of student accommodation visible on both sides of New Town Row. Immediately south of the appeal site, groundworks for a new residential block were underway at the time of my visit. Further north of the appeal site the character is more industrial and commercial in nature.
7. Advertisements are a common feature within the street scene. At the appeal site, two internally illuminated non-digital advertisements in a V shaped configuration are present and splayed in both directions to users of New Town Row. These would be replaced by the proposed digital advertisements. In mid-range views looking south towards the proposal, a large double sided internally illuminated digital advertisement is visually prominent on the opposite side of the road to the appeal site. Looking north, both digital and static traditional advertisements can be seen.
8. Whilst the proposed digital advertisements would be large, when viewed against the backdrop of the dominant high-rise buildings, existing advertisements and in the context of the wide busy road, the proposal would not appear incongruous or result in a cumulative adverse visual impact on the street scene as the size, scale and orientation of the proposed displays would remain the same as the present situation.
9. The Council's concerns in relation to the proposed digital and internally illuminated nature of the display could be mitigated by conditions should I be minded to allow the appeal. This would ensure that the advertisements do not contain moving or flashing images and that the illuminance would not have a harmful effect on visual amenity experienced at this location.
10. The proposed advertisement structure would differ significantly from the existing structure which is currently a large black timber hoarding. The proposed advertisement structure would have a modern appearance, more akin to a metal sculpture and would considerably increase the visual permeability experienced from the public realm, allowing views through the appeal site.
11. Whilst the proposed structure would be taller than the existing hoarding, it would be seen against a backdrop of modern, tall buildings therefore would not dominate views and would assimilate positively in the above context. This would be aided by the proposed landscaping including additional trees and a native meadow. Furthermore, as a consequence of the V shaped siting of the proposal, the minimal differences in the width of the side profile between the existing hoarding and the proposed structure would not be noticeable from public vantage points. Accordingly, I find that it would not be visually obtrusive in the street scene.
12. I have had regard to the proposed residential development being built in close proximity to the site and the impact of the proposal on the visual amenity of any future occupiers. From reviewing the proposed site plan, the V shaped nature of the display means that the advertisements would be orientated away

from the proposed residential block towards the road. Moreover, as previously mentioned, the proposed structure would have a more open character than the existing hoarding, thereby allowing views through the site, which would result in a less oppressive structure. Taking these factors into account I find the proposal would not be detrimental to visual amenity for future occupiers.

13. For the reasons outlined above, I find the proposal would not have a harmful effect upon the visual amenity of the area. Although not determinative, where relevant to the appeal, there would be no conflict with policy PG3 of the Birmingham Development Plan (2017) or policies DM2 and DM7 of the Development Management in Birmingham DPD (2021). These policies, amongst other matters, require proposals to demonstrate high quality design and to have acceptable impacts on amenity.

Other Matter

14. The Council has referred to a previous advertisement appeal that was dismissed at the appeal site. I do not have the specific details of this appeal decision before me so I cannot be sure of the full circumstances which led to the dismissal. In any case, the surrounding site context has undergone considerable change in recent years so it is likely to be different to when the previous appeal was considered.

Conditions

15. In addition to the five standard conditions set out in the Regulations, I have considered several additional conditions and reviewed these in accordance with the tests in the Framework.
16. In the interests of public safety and visual amenity I consider conditions relating to the method with which the displays change, frequency and control of moving images, a mechanism to freeze the image in the event of a malfunction and levels of luminance to be necessary.
17. To avoid any confusion for highway users, it is necessary to ensure that advertisement content does not resemble road traffic signs and a condition to that effect is attached.
18. To ensure the visual amenity of the area is not impaired, a condition is necessary requiring the landscaping surrounding the advertisement and associated structure to be implemented in accordance with the submitted layout plan.

Conclusion and Recommendation

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

Tom Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

20. 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 the five standard conditions and the conditions set out in the attached schedule.

Chris Preston

INSPECTOR

Schedule of additional conditions

1. Static images to be displayed only. The advertising display shall contain no moving images, animation, audio, video or full motion images.
2. The minimum display time for any advertisement shall be 10 seconds and the change between advertisement images shall be instant with no sequencing, fading, swiping or merging of images.
3. In the event of a malfunction, the advertisement screen shall have a default mechanism to freeze the image to avoid any flashing error messages or pixilation.
4. The screen shall not exceed a luminance of 300cd/sqm at night (dusk to dawn) and shall not exceed the thresholds contained within the Institute of Lighting Professionals (ILP) guidance document PLG05 – The Brightness of Illuminated Advertisements 2015 during daylight hours (dawn to dusk).
5. The display shall be fitted with a light sensor, which shall adjust the illumination levels to reflect changes in ambient light levels.
6. No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.
7. The existing landscaping should be retained as shown on the layout plan PA04 and new landscaping carried out as shown on the same plan within the first planting season following the erection of the advertisement.