



Appeal Decision

Site visit made on 29 November 2022

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st December 2022

Appeal Ref: APP/C4615/Z/22/3303906

Land at 105 Birmingham Street, Stourbridge DY8 1JG

- 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 Clear Channel against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P22/0290, dated 24 February 2022, was refused by notice dated 30 June 2022.
 - The advertisement proposed was originally described as a single illuminated 48-sheet digital poster display.
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Decision

1. The appeal is allowed, and express consent is granted for the display of 1 no. illuminated freestanding 48 sheet digital poster display 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 advertisement display shall not operate between the hours of 23:00 and 05:00.
 - 2) The intensity of the illumination of the advertisement, permitted by this consent, shall be no greater than 300 cd/m² during the hours of darkness (dusk until dawn) and 3000 cd/m² during the daytime (dawn until dusk). The level of luminance of the advertisement display shall be controlled by light sensors that measure ambient light levels and automatically control the perceived brightness to within the limits set by this condition.
 - 3) The advertisement display shall only display static images and shall not display any moving images, animation, intermittent or full motion video images, or any images that resemble road signs or traffic signals.
 - 4) No individual advertisement shall be displayed for a duration of less than 10 seconds and the transition between advertisement images shall take place over a period no greater than 0.1 second.

Preliminary Matter

2. Notwithstanding the description of the proposal set out in the banner heading above, which is from the application form, I have used the description of the proposal from the Council's decision notice in the interests of clarity. I have therefore used this description in the formal decision.

Main Issue

3. The Regulations¹ require that decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework and the Planning Practice Guidance (PPG) confirm this approach. As there is no dispute between the main parties in relation to the effect of the proposal on public safety, the main issue is the effect of the proposed advertisement on the amenity of the area.

Reasons

4. The appeal site is on the edge of a site occupied by a tyre and car wash business which utilise a former petrol filling station building and canopy. On the adjacent site, heading towards Stourbridge town centre, is a gym and Premier Inn. On the opposite side of the A458 are residential dwellings. The proposed advertisement display would be freestanding and sit on the edge of the site, between the tyre business building and the gym building, adjacent to a narrow vehicle access between the site and the gym.
5. The backdrop of the proposed advertisement would be the gym building, and other commercial buildings, when viewed travelling towards Stourbridge town centre. The advertisement would be lower in height than the gym building, which would form its backdrop, and the internally illuminated business advertising on that premises. It would also be lower in height than the tyre business and car wash within the former petrol filling station building and canopy.
6. The character beyond the appeal site, when travelling away from the town centre towards the Stour Valley, is verdant with significant areas of vegetation and large groups of well-established trees. However, the views of the advertisement, in the position proposed, would be within the context of the existing commercial buildings. The position and facing direction of the advertisement is designed to be seen within a commercial backdrop. Furthermore, the curvature of the A458 restricts longer distance views.
7. The houses on the opposite side of the A458 are set at a higher level and off a secondary road. Roadside trees and vegetation on the slope screens direct views of the appeal proposal from the houses. There are limited views through the landscaping from the secondary road, which would be particularly noticeable in the winter months. However, these would be transient views as vehicles and pedestrians move along the road. Moreover, the conditions to restrict illumination levels during the hours of darkness and operational hours would limit any impact and ensure that the display would not appear overly bright and/ or cause glare.
8. I therefore find that, although the proposal would be clearly visible, it would not harm the visual amenity of the area or the amenity of the houses for the reasons given above.
9. I note the Council has directed me to an appeal decision² which was for a similar advertisement but on the opposite end of the site. The appeal before me is in a different position, the advertisement faces the traffic heading into town rather than facing traffic as it travels away from the town. Furthermore,

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

² APP/C4615/Z/22/3291567

the backdrop of the proposal is now the adjacent commercial building rather than the verdant trees and vegetation. I have therefore had regard to the previous appeal decision, but it is not directly comparable. Moreover, I reached my own conclusions on the basis of the evidence before me, and my site visit observations.

10. In accordance with the Regulations, I have taken into account the provisions of the development plan so far as they are relevant. Policy D12 of the Dudley Borough Development Strategy 2017 requires advertisements to be in keeping with the scale and character of the area, any adjacent buildings and fit to the surroundings. I have concluded that the advertisement would not harm amenity, therefore the appeal proposal would comply with this policy.

Other Matters

11. The Council has referred to policies ENV2 and ENV3 of the Black Country Core Strategy 2011 (CS) and the Dudley Metropolitan Borough Planning Guidance Note 11 Advertisement Display Guide 1996 (Guidance Note). However, these policies are not cited in the reason for refusal.
12. The CS policies generally seek to protect and enhance the built environment. The Guidance Note provides general requirements for adverts and detailed advice for hoardings. The appeal proposal complies with the requirements for hoardings for the reasons given above. Accordingly, as I have found no harm to amenity the proposal would comply with the CS and the Guidance Note.

Conditions

13. In addition to the five standard conditions, I have considered the conditions suggested by the Council and the appellant, which each have had sight of, and in light of the PPG. For clarity, precision and to ensure compliance with the PPG, I have undertaken some minor editing and rationalisation.
14. I have imposed conditions restricting the hours of the advertisement, levels of illumination, control of the frequency of image change, and to ensure that images remain static. These conditions are all necessary in the interests of visual amenity, to safeguard public safety and to ensure that the level of illumination is within the recommendations of the Institute of Lighting Professionals in its Professional Lighting Guide 05, Brightness of Illuminated Advertisements, or its equivalent in a replacement Guide.

Conclusion

15. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should succeed, and express consent be granted subject to conditions.

K Townend

INSPECTOR