



Appeal Decision

Site visit made on 20 February 2023

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd February 2023

Appeal Ref: APP/P4605/Z/22/3301578

Railway Embankment Land, adjacent to Pershore Road South, South of Kings Norton Fire Station, Birmingham B30 3EH

- 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 Network Rail against the decision of Birmingham City Council.
 - The application Ref 2022/02102/PA, dated 7 March 2022, was refused by notice dated 27 April 2022.
 - The advertisement proposed is the “replacement of 1no. externally illuminated 48 sheet advertisement billboard with 1no. 48 sheet digital LED advertisement display”.
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Decision

1. The appeal is allowed, and express consent is granted for the replacement of 1no. externally illuminated 48 sheet advertisement billboard with 1no. 48 sheet digital LED advertisement display on Railway Embankment Land, adjacent to Pershore Road South, South of Kings Norton Fire Station, Birmingham B30 3EH in accordance with the terms of the application, Ref 2022/02102/PA, dated 7 March 2022. The consent is subject to the five standard conditions set out in the Regulations, and the following additional conditions:
 - 1) The advertisement hereby granted consent shall only display static images and shall include no moving or flashing elements.
 - 2) The intensity of the luminance of the advertisements hereby granted consent shall be no greater than 600 candela per square metre during daylight hours and shall be no greater than 300 candela per square metre during evening and night-time hours. The adverts shall be equipped with a dimmer control mechanism and a photo-cell which shall constantly monitor ambient light conditions and adjust brightness accordingly.
 - 3) The advertisement hereby granted consent shall not be illuminated by flashing or intermittent lighting.
 - 4) The minimum length of time for each display shall be 10 seconds and the time interval between successive displays shall be no greater than 0.1 seconds with no fading, swiping or other animated transition methods between successive displays.

Preliminary Matters

2. Although the Council’s reason for refusal refers to heritage effects described in the National Planning Policy Framework (the Framework) and the statutory duty in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, neither of these apply to this advertisement consent appeal. The Regulations confine assessment of issues to amenity and public safety, albeit any feature of historic interest is relevant to amenity.

Main Issue

3. Having regard to the above, and the lack of any public safety objections, the main issue is therefore the effect of the proposal on amenity.

Reasons

4. There is an existing, internally illuminated advertisement at the appeal site, which the appellant claims now benefits from deemed consent. Nothing from the Council suggests otherwise. This advertisement sits against the end of the fire station flats, facing a wide, busy road in a mixed, but largely commercial area with a wide variety of internally, externally and non-illuminated signs and other advertisements. Its replacement with a tightly controlled, internally illuminated advertisement at the same size and in the same location, albeit digital in form would not, in my opinion have a fundamentally different effect on the amenity of the area.
5. Notwithstanding my preliminary matters above, it is appropriate for me to consider the effect of the proposal on the setting of the listed building insofar as that relates to amenity. I note that the advertisement is not attached to the flats, that the flats provide a buffer between the advertisement and the listed building. Also, in views where the advertisement is most visible, the fire station is less so, receding into the streetscape, and in views where the fire station is most visible, notably from the front and the area approaching and around the junction to the north, the advertisement is largely obscured by the flats and in any event, faces away from the fire station. Given the proposal is a replacement, and given the detail provided around its illumination and operation, I am satisfied that the proposal would have no greater effect on, or cause harm to the setting of the listed building or the overall significance of the flats as a non-designated heritage asset, and that any effect on these features of historic interest would not harm the amenity of the area.
6. Insofar as they are relevant to consideration of the effect of the proposal on amenity, I have taken into account policies PG3 and TP12 of the Birmingham Development Plan 2017.

Conditions

7. In addition to the five standard conditions set out in the Regulations, I consider that it is necessary to attach the conditions set out above in order to clearly define and control the consent granted in the interests of amenity and public safety, in line with the comments of the Council. Whilst I note the Council has sought a condition listing the approved plans, I do not consider this to be necessary. I am therefore satisfied that the additional conditions I have imposed meet the tests in, and requirements of both the Framework and the Planning Practice Guidance.

Conclusion

8. For the reasons given above I conclude that the proposal would not harm the interests of amenity, the appeal should be allowed, and express consent granted.

S Dean

INSPECTOR