



Appeal Decision

Site visit made on 2 May 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 May 2023

Appeal Ref: APP/P4605/Z/22/3306125

75 Tyburn Road, Birmingham B24 8NP

- 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 Mr Patrick Neville (R E Director Ltd) against the decision of Birmingham City Council.
 - The application Ref 2022/04008/PA, dated 16 May 2022, was refused by notice dated 8 July 2022.
 - The advertisement proposed is to replace existing small format v-shaped paper billboards with 2 x D28 digital screens set up in a v-shape to replicate existing, mounted on a free-standing high level freestanding steel frame.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as material considerations. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal the Council's policies have not therefore, by themselves, been decisive.

Main Issue

3. The main issue is the effect of the adverts on public safety with particular regard to highway safety on the M6.

Reasons

4. The site is located within a primarily commercial area set close to the convergence of several local main routes and the large interchange junction between the M6 and the A38(M). The display would be set to the rear of a commercial building which fronts on to Tyburn Road. It would consist of 2 digital displays mounted on a freestanding steel framework between the building and the elevated carriageway of the M6 passing to the southwest. The displays would be angled such that they would be visible to those travelling along both sides of the M6.
5. According to the Council's highway advisor, the local stretch of motorway carries some of the highest traffic flows in the country. The viaduct is identified as having a collision rate significantly above the national average. It is sensitive to risk and requires full driver attention due to the proximity of the main junction and traffic manoeuvring to join or leave the M6.

6. The attendant requirements for lane and speed changing to exit or enter the main carriageways requires high levels of driver concentration. As real-time gantry signage seeks to best manage flows or advise of lane blockages, any distraction from the live motorway signage, or during lane or speed change manoeuvres, would be particularly hazardous in this locality.
7. Being sited in close proximity to the junction and gantry signage, the proposed displays would have a high propensity to distract driver attention. In the circumstances, even a minor lack of driver concentration would potentially significantly elevate highway safety risks. This is a view shared by the highway authority for the national strategic road network and is not contested by the appellant.
8. In support of the proposals, the appellant has referred me to a number of existing digital advertising displays and hoardings which are visible when travelling along the local stretch of the M6. Notwithstanding that the introduction of an additional changing display would add to competition for driver attention, there is little detail of the circumstances under which those displays were permitted or any restrictions which might be imposed upon them. I am therefore unable to draw direct comparisons, or otherwise.
9. Moreover, precedent is rarely an argument that should carry great weight in decisions which should be made on their own merits in relation to the relevant matters of amenity and public safety. The fact that the screen might be smaller than other examples and therefore only legible at closer range is not a matter in favour of the proposal.
10. For the above reasons, I find that the proposal would prejudice highway safety on a major national route. It would be in conflict with Policy DM7 of the Development Management in Birmingham Development Plan Document [2021] as it seeks to resist hoardings visible from the M6 motorway which are purposefully designed to be read from the roadway and where the attention of drivers is likely to be distracted.

Other Matters

11. I recognise that modern digital displays could be used for public service announcements in addition to advertising local businesses. It could assist in promoting business during the post-pandemic economic challenges. However, the benefits therein do not, in my view, outweigh the potential harm to the important matter of public safety in the particular circumstances of the case.

Conclusion

12. For the reasons given, I conclude that the display of the advertisements would be detrimental to the interests of public safety.

R Hitchcock

INSPECTOR