



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: 12 May 2023

Appeal Ref: APP/P4605/Z/22/3309261

855 Bristol Road South, Northfield, Birmingham B31 2PA

- 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 Benjamin Porte (Clear Channel UK) against the decision of Birmingham City Council.
 - The application Ref 2022/05262/PA, dated 30 June 2022, was refused by notice dated 23 August 2022.
 - The advertisement proposed is the installation of internally illuminated freestanding 48-sheet (dimensions 6m x 3m) digital poster display and associated works.
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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 proposed advertisement on amenity.

Reasons

4. The scheme proposes the erection of a 3x6m digital display screen mounted between the rear corner of a 2-storey building and a boundary wall and railings along the eastern side of Sir Herbert Austin Way (A38), a dual carriageway route skirting the Northfield shopping area. The screen would be elevated on a base stand to clear the height of the boundary enclosures.
5. In the locality, Sir Herbert Austin Way benefits from hard and soft landscaping. This includes regularly spaced trees along the eastern side of the road. The trees are a positive element of the streetscape on the local stretch of the busy strategic route.
6. The proposed siting and alignment of the sign would encroach into the extent of an existing street tree canopy close to the rear boundary wall of 855 Bristol Road South. It would require the partial cutting back of the tree to facilitate its installation and/or to provide clear views to the display.

7. The appellant asserts that the necessary pruning would be no greater than about 20%. However, as a proposed installation that would directly conflict with an existing tree, there is little detailed assessment of the associated extent of the works required to achieve the installation or its subsequent effects on the tree.
8. As a minimum, the cutting back of the tree would result in its unbalanced appearance. The screen would appear to visually extend into the canopy and, viewed from the south, would obscure much of any remainder of the canopy within the site. The change to the tree's appearance and apparent conflict with the sign would reduce the contribution of the tree as an integral part of the landscaping in the wider streetscape.
9. Furthermore, there is little to demonstrate the attendant risk to the long-term health of the tree. The siting within the natural canopy extent would cause an ongoing conflict between the branches and the display. This could result in obscuring part of the screen or damage to it as result of the growth or movement of the tree. It would impose a liability for continuous maintenance.
10. The appellant has indicated that mitigatory action and a maintenance regime could be carried out by the appellant to preserve the status quo in relation to local amenity. However, in the absence of an informed assessment of the long-term effects of works to the tree, or detail of mitigation for any subsequent losses, I am not persuaded that avoidance of harm to amenity would be achieved. Accordingly, to impose a condition requiring it might fail the test of reasonableness as it could nullify the benefit of any consent it was attached to.
11. I acknowledge the appellant's contention that the landowner would be entitled to trim overhanging branches back to the boundary under common law. However, the appellant is not the landowner in this instance, and there is little to suggest that that would be a realistic outcome if consent were withheld. It is therefore a fallback position of limited weight in the appeal. I also recognise that, in default, the landowner would be entitled to cut back the tree to maintain views to the display. However, this would not justify the identified harm to amenity that would arise.
12. For the above reasons, I find the proposal would cause harm to the existing amenity value of the tree and its contribution to the greening of the Sir Herbert Austin Way road corridor. In the absence of mitigation of those effects, there would be conflict with Policies PG3 and TP7 of the Birmingham Development Plan [2017] and Policies DM4 and DM7 of the Development Management in Birmingham Development Plan Document [2021] as they seek to protect existing levels of amenity, including through the protection of attractive environments and green infrastructure. For similar reasons, the proposal would conflict with the National Planning Policy Framework.

Conclusion

13. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

R Hitchcock INSPECTOR