

Appeal Decision

Site visit made on 14 June 2023

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2023

Appeal Ref. APP/A5270/Z/22/3313711

Land at Friary Road and Western Avenue, Acton, London W3 6AF

- 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 Chi Tang against the decision of the Council of the London Borough of Ealing.
 - The application ref. 222750ADV, dated 20 June 2022, was refused by notice dated 31 October 2022.
 - The advertisement proposed is "Installation of one digital advertisement with frame".
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Decision

1. The appeal is allowed and express consent is granted for the display of "Installation of one digital advertisement with frame" as applied for and as recorded on drawing nos 22650-A(GA)100 Rev. A, 220650-A(GA)300 Rev. A, 220650-A(GA)400 Rev. A, and 220650-A(GA)500 Rev. A. The consent is for 5 years from the date of this decision and is subject to the 5 standard conditions set out in the Regulations and the following additional conditions:
 - 1) The maximum luminance of the advertisements to be displayed on the panel shall not exceed 300 candelas per square metre at all times.
 - 2) The individual advertisements shall contain no moving images, animation, intermittent or full motion video images, or any images that resemble or reflect road signs or traffic signals.
 - 3) The minimum display time for any advertisements shall be 10 seconds, the change between advertisements shall be instantaneous and there shall be a default mechanism which freezes the image or turns off the display or shows a black screen in the event of any malfunction.

Preliminary matters

2. In the heading and decision above, I have used the description of the proposed advertisement found on the Council's decision notice and accepted in the appellant's appeal statement. This reflects the fact that the 1.5 m depth frame originally proposed was superseded by revised plans, submitted during the processing of the application, showing a frame with a slimmer profile at 0.8 m in depth. Reading the Council's Delegated Decision Report (DDR), it is evident that the revised (Rev. A) drawings were considered by the Council, even though some of the plan numbers are not recorded accurately in the DDR or on the decision notice itself. In the interests of clarity, the 4 key revised drawings are

listed in the decision above. I have also had regard to the Road Safety Assessment (RSA), prepared by RKS Associates, which was also submitted during the course of the application process.

3. Under the above Regulations powers to control advertisements are to be exercised in the interests of amenity and public safety taking into account the provisions of the development plan, so far as they are material and any other relevant factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) reiterate this approach.
4. Express consent was refused (under appeal ref. APP/A5270/H/21/3270286) on 28 June 2021 for an internally illuminated digital advertisement display (about 6.2 m wide by 3.3 m high) on a free-standing support structure. That appeal was dismissed on the grounds of visual amenity and highway safety and related to the non-determination of application ref. 203924ADV originally dated 23 September 2020. Subsequently, on 14 March 2022 the Council gave consent under application ref. 220205ADV for the installation of a non-illuminated advertising sign with a hoarding area measuring 15.68 sq. m. Whilst I have determined the appeal before me on its own merits, these 2 items of planning history relating to the appeal site are relevant factors to take into account.

Main issue

5. Flowing from the single reason for refusal on the Council's decision notice, the main issue is the effect of the proposed advertisement display upon the amenity of the site and its surroundings.

Reasons

6. The appeal site does not fall within any designated heritage area and its surroundings are not characterized by the presence of any important buildings or features of obvious scenic, historic, architectural, cultural or similar interest. It comprises a rather neglected parcel of land which sits in something of a corridor bordering the north-westbound route of the very busy A40 (Western Avenue) dual carriageway, a railway embankment close to the Western Avenue Overbridge, Friary Road next to its junction with Western Avenue and the eastern boundary of Dean Court, a large 3-storey block of flats.
7. The land currently contains a very large steel framework which once provided support structures for advertisements. The Council says that these were previously approved at some point in the early 2000s though they have not been in use since at least October 2016. Mature trees are growing up from the railway embankment. They provide an attractive backdrop when approaching along Western Avenue from the south-east and effectively screen the steel framework on the opposite approach.
8. The immediate neighbourhood is resolutely urban in character. As well as the infrastructure associated with the railway and the A40 highway, there are large-scale commercial buildings and co-living serviced accommodation blocks of several storeys on the opposite side of the A40. Friary Road and the western side of Western Avenue are more residential in character. The appeal proposal would not be the neighbourhood's first digital free-standing display. A far larger digital advertising display than that proposed stands on the other side of the Western Avenue Overbridge on the A40's junction with Rosebank Way, a residential street like Friary Road. That display is only about 1 m away from the flats in Treetops House on Rosebank Way. Rather unsurprisingly, there are other

advertisements of various designs, forms and heights close to the A40, especially to the north-west, mainly associated with the commercial outlets.

9. Being within part of a major conurbation where there are large buildings and a very busy main highway gives this locality a character which the PPG identifies as likely to be a suitable location for large poster-hoardings. Indeed, the Council has confirmed the suitability of the site for the display of a large non-illuminated hoarding in landscape format with the grant of consent on 14 March 2022 under application ref. 220205ADV. In physical terms, the portrait orientation of the proposed display would result in a height above ground level that would exceed that shown in the previous appeal, the March 2022 permission and the existing steel framework, but, in my view, its modest width would be far more striking being slimmer by about 3.24 m, 2.60 m and 8.45 m respectively.
10. The vertical alignment has a number of important and positive consequences. It reflects the vertical emphasis of many features in the same principal view from the south-east, including the adjacent street lights and advance direction road sign, the backdrop of tall trees, 2 tower blocks and the opposing end gable of Dane Court. It would mask far less of the verdant backdrop which contributes positively to the urban scene. There would be a much reduced surface area if the whole structure (signage and underneath supporting framework) is considered. Greater clearance would be achieved away from the advance direction road sign removing any sense of visual clutter.
11. The display would be sited and angled so as to be noticeable from various public vantage points along the A40, but only when approaching along it from the south-east. The proposed sign would have a reasonably long range of visibility along the A40 but this would be as much to do with the width and alignment of that major highway as the sign's scale, siting and method of display. Going only marginally higher than the existing support structure and having only a minimal width and with a backdrop of the vegetation on the railway embankment, the display would not appear unduly prominent or cause such a degree of visual intrusion into the A40 street scene as to warrant withholding express consent.
12. The display would not form an incongruous feature in the residential street of Friary Road, especially now that there is an extant consent for a far wider hoarding in a very similar position in close proximity to Dean Court. Rather, its contemporary and neater design would make a more positive contribution. In this residential context, the sign would be primarily seen against the tall end gable of the adjacent 3-storey building at Dean Court which would be unaffected and remain the dominant feature in this street scene. There has been no suggestion from the Council or in the previous appeal decision that there would be harm to the living conditions of nearby residential occupiers. The angled siting and the surrounding frame at 0.8 m in depth would limit light spill towards any dwellings. I noted that the houses opposite at 40 and 42 Friary Road have dense vegetation across their front gardens, quite possibly in response to the proximity of the A40. The application put forward an intensity of illumination of 300 candelas per square metre which is quite reasonable. A suitable condition to control brightness and the operation of the digital display can be imposed to protect residential amenity which I turn to in paragraph 19 below.
13. Given the intervening Western Avenue Overbridge, the appeal display would not be visually linked with the sizeable digital display off Rosebank Way to any great extent. Thus, it would not become part of a critical mass of advertisements that results in harmful visual clutter.

14. I find that the proposed advertisement display would not harm the amenity of the site and its surroundings. The scheme would meet the design criteria within Policies D3 and D4 of the London Plan and Policies 7.4 and 7B of the Council's Development Management Development Plan Document and would not go against the advice given in the Framework and the PPG.

Other matters - public safety and the previous appeal decision

15. Amongst other things, the RSA analysed collision data and the highway safety issues raised in the previous appeal decision. I note that the greater visual separation from the advance direction road sign was supported in safety terms. Overall, the RSA found that the proposal for the portrait digital advertising sign at this location would not be detrimental to road safety for all road users, subject to the content of the advertising sign not reflecting images of road signs or having similar content (such as traffic signals) as this may lead to distractions to drivers. Like the Council, I see no reason to disagree with the conclusions reached in the RSA. The proposed advertisement display would not pose an unacceptable risk to public safety, including highway safety. There would be no conflict with Policies T3 and T4 of the London Plan or with the Framework and the PPG in this regard.
16. The submission of the independent RSA, the portrait orientation of the proposed display and the consent granted on 14 March 2022 under application ref. 220205ADV for the installation of a non-illuminated advertising sign amount to significant changes in circumstances since the appeal decision in June 2021.

Conditions

17. The Council said in the questionnaire that no other conditions other than the 5 standard conditions should be imposed in the event of the appeal succeeding.
18. However, the RSA was correct, in my view, to recommend that the content of the advertising sign should not reflect images of road signs or similar content (such as traffic signals) as this may lead to distractions to drivers. This can be controlled through a planning condition. For similar reasons, I consider that this condition should also ensure that individual advertisements shall contain no moving images, animation or intermittent or full motion video images.
19. In the interests of public safety and amenity, it is necessary to control the level of illumination to that specified in the application and also the display times for each advertisement, the changeover of advertisements and the steps to be in place in the event of any malfunction.
20. The 3 additional conditions I have imposed are, in my experience, now commonplace for this type of digital display. They should not therefore come as a surprise to any party.

Conclusion

21. Having regard to all other matters raised in the written material before me and to the absence of objections from local residents and local organisations, I have reached the conclusion that the appeal should be allowed.

Andrew Dale

INSPECTOR