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# Appeal Decision

Site visit made on 27 June 2023

**by G Bayliss BA (Hons) MA MA MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> July 2023**

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**Appeal Ref: APP/P4605/Z/23/3316409**

**63-66 High Street, Ladywood, Birmingham B4 7TA**

- 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 Stephenson, Open Outdoor Media Ltd, against the decision of Birmingham City Council.
  - The application Ref 2022/08028/PA, dated 24 October 2022, was refused by notice dated 17 January 2023.
  - The development proposed is the installation of a portrait digital advertising screen set within a vertical living wall on the external corner elevation of the first-fourth floors.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description contained within the application and reflected in the heading above differs to that cited on the Council's decision notice as the latter does not make any reference to the proposed vertical living wall. The Planning Practice Guidance 'Advertisements' advises that planning permission is deemed to be granted for any development of land involved in the display of advertisements in accordance with the Regulations. This includes the erection of any structure where its primary purpose is to display advertisements and includes development which is ancillary to the advert's display but part of the same scheme<sup>1</sup>.
3. On the evidence before me, I am satisfied that the proposed living wall structure forms part of the same advertisement scheme as the proposed digital screen, as the application form describes, and that the whole proposed scheme therefore falls for my consideration in this appeal.

## Main Issue

4. The main issue is the effect of the proposed advertisement on the visual amenity of the area.

## Reasons

5. The appeal building is a commercial premises within a pedestrianised shopping area in the centre of Birmingham. It is a prominently located corner property at the junction of High Street and Union Street and incorporates a chamfered corner. It is a rather anonymous building which is largely featureless apart from the ground floor shopfronts and some vertical detailing above. The

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<sup>1</sup> Paragraph: 004 Reference ID: 18b-004-20140306.

building is of similar scale to immediately surrounding properties, although there are also larger buildings nearby, and building designs are generally mixed. There are largely consistent building frontages tightly enclosing the streets which allow long linear views in many directions.

6. The surrounding area is characterised by a range of street furniture typically associated with a pedestrian area with some street trees, and the area is mainly lit by street lighting supplemented by illumination from commercial premises. Advertisements on buildings in the area are mainly shop fascia signs and smaller projecting signs such as those on the host building, with fewer at high-level. There are several freestanding digital advertisement panels in the immediate area which are approximately the height of a phone kiosk. A number of these could be viewed in conjunction with the appeal site. I also viewed the large-scale digital advert on the corner of New Street and High Street, which is to the south of the appeal site, although there did not appear to be any intervisibility with it. I noted during my visit that even in the daytime the strong colours, brightness and changing images made the positions of the digital adverts noticeable from some distance along the street.
7. The proposed digital advertising screen would be displayed in portrait format, occupying a large part of the chamfered corner of the building above the shopfront, set within an ancillary living wall which would extend on all sides of the digital screen, wrapping around onto the elevations directly facing High Street and Union Street. The totality of the digital screen and living wall would mean that most of the upper elevations of the street-facing corner of the building would be covered.
8. The location and orientation of the host property would mean that the digital screen would be prominently viewed at the junction of Union Street and High Street, and by those travelling northward towards that junction along High Street. It would also be seen at the High Street Junction with Carrs Lane. Whilst it would be experienced within the context of the existing surrounding commercial premises and their associated signage, the proposed digital screen would be considerably larger and more dominant than existing adverts seen in the immediate area. Despite views of some larger buildings in the background, the appeal proposal would have an overly domineering effect on the host building, occupying a significant part of the prominent chamfered wall fronting the junction. The combination of the appeal proposal's commanding position, its large scale and illuminated dynamic digital format would significantly heighten its presence within the streetscene, particularly during the hours of darkness.
9. The proposed digital screen would be viewed in combination with the other smaller, free-standing digital advertisement panels within the adjoining streets so that potentially, multiple digital images would be seen at one time. Whilst this is a city centre where a greater proportion of adverts is to be expected, the cumulative impact of these dynamic signs, would result in unnecessary clutter to the street scene and negatively impact on the visual amenity of the area.
10. The proposal would be informed by the guidelines of the Institute of Lighting Professionals, and there is the potential for conditions to limit impacts including managing the frequency of images and illumination levels. However, these would not adequately address the dominance of the proposed advert on the building and the street scene or on the proliferation of this type of signage.

11. The proposed vertical living wall would enliven what is a rather bland building, potentially creating a more attractive environment, add to the amount of green infrastructure in the area and compliment the nearby street trees. However, it is designed to create a large, identifying feature in the city centre and despite these stated benefits, it would further emphasise the dominance of the digital screen, distracting and drawing the eye, exacerbating the harms I have identified.
12. Whilst details of the living wall are included with the proposal, there is inadequate information to explain how the proposal would integrate with the building façade. It is unclear to what extent it would project from the building and how the digital screen would be accommodated. Therefore, the presence of the structure could be markedly bulkier and more dominant than the images before me suggest.
13. I have taken account of the other matters advanced by the appellant weighing in favour of the appeal scheme including the benefits to biodiversity, carbon reduction, modernising the core retail area and contributing to placemaking but these matters are not sufficient to outweigh the harm to amenity identified above. Furthermore, whilst the appeal decision in Northamptonshire demonstrates that the inclusion of living walls alongside advertisements in urban areas can complement the surrounding street scene, I cannot be certain that the circumstances of this site are similar to those before me. Also, whilst a condition could be attached to a permission to secure a portion of screen time for public service events/announcements, there are inadequate details provided and, in any event, this would not make the proposal acceptable.
14. Consequently, the harm to the visual amenity of the area would be contrary to Policy PG3 of the Birmingham Development Plan (2017) and Policies DM2 and DM7 of the Development Management in Birmingham DPD (2021.) Although this latter policy was not cited in the Council's Decision Notice it is referred to in the planning officers report. These require adverts to be sympathetic to the character and appearance of their location and avoid proliferation or a clutter of signage in the public realm. There is also conflict with paragraph 136 of the National Planning Policy Framework (the Framework) which states that the quality and character of places can suffer when advertisements are poorly sited and designed. The development plan policies have been considered to the extent permitted by the Framework which limits assessment of advertisements to visual amenity and public safety.

## **Conclusion**

15. For the reasons given above, and having regard to all other matters raised, I conclude that the proposed advertisement would have a detrimental effect on the visual amenity of the area and the appeal is therefore dismissed.

*G Bayliss*

INSPECTOR