



Appeal Decision

Site visit made on 2 November 2023 by T Bennett BA (Hons) MSc MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/P4605/Z/23/3325373

Belgrave Middleway/St Luke's Road, Highgate, Birmingham B5 7DP

- 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 Global against the decision of Birmingham City Council.
 - The application Ref 2023/02170/PA, dated 31 March 2023, was refused by notice dated 19 May 2023.
 - The advertisement proposed is for the display of 1no. internally illuminated digital poster panel with limited moving content.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. I have taken relevant development plan policies into account as material considerations where they are relevant to the main issue. The powers to control advertisements under the above regulations may be exercised only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework 2023 (the Framework) and the Planning Practice Guidance (PPG) reiterate this approach.
4. The illuminated digital advertisement has a consent, ref 2014/06730/PA. It has been in situ since 2015. The scheme seeks to vary a condition thereon. However, because of the elapsed time since the granting of express consent, an appeal against the conditions imposed cannot be applied for. Therefore, a fresh application for express consent has been sought. This is reflected in the appellant's submissions and I have considered it as such.

Main Issue

5. The Council has raised no concerns regarding public safety in this case and I see no reason to disagree. The main issue is therefore the effect of the proposed advertisement on visual amenity with specific regard to the residents of the adjacent apartment block on St Luke's Road.

Reasons for the Recommendation

6. Despite being adjacent to a busy ring road, the area surrounding the appeal site is predominantly residential, with properties on both sides of Belgrave

Middleway. An apartment block has recently been constructed on the corner of St Luke's Road and Belgrave Middleway with windows facing, and in close proximity to, the existing digital advertisement. This proposal intends to keep the existing digital advertisement and structure but is seeking animated, scrolling and intermittent images which was not permitted previously. The PPG advises that amenity, in the context of the control of advertisements, includes aural and visual amenity but it does not extend to living conditions. I have therefore approached this appeal in relation to how residents would experience the advertisement in visual amenity terms.

7. The existing advertisement has been in operation for several years, with images changing frequently. In this regard, the illuminated digital advertisement has become an established part of the views and street scene for residents within the apartment block. However, the addition of animated, scrolling and/or intermittent images would increase the visual prominence of the advertisement, unduly drawing the eye and creating an unwelcome visual distraction. This change would result in an adverse impact on the visual amenity of the area that residents have been accustomed to.
8. The trees situated between the digital advertisement and the apartment block assist in obscuring views from the eastern elevation. However, when they aren't in leaf, the advertisement would become significantly more visible. They would not therefore sufficiently mitigate against the harm identified. I have no information about the species of the trees and the specific months they would come into and go out of leaf so it would be problematic to have a condition prohibiting the use of moving images during certain months. Moreover, I am mindful that the trees could die or be removed outside of any reasonable controls. Such a condition would not therefore meet the tests of preciseness or enforceability as set out in the Framework and PPG.
9. The proposal would have a harmful effect on the visual amenity of the area for the above reasons. Although not determinative, there would be conflict with Policies PG3 and TP27 of the Birmingham Development Plan (2017) and Policy DM2 of the Development Management in Birmingham DPD (2021). These policies, amongst other matters, require proposals to demonstrate high quality design and to have acceptable impacts on amenity.

Conclusion and Recommendation

10. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

T Bennett

APPEALS PLANNING OFFICER

Inspector's Decision

11. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

John Morrison

INSPECTOR