



Appeal Decision

Site visit made on 15 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: 3rd January 2024

Appeal Ref: APP/P4605/Z/23/3326147

Railway Embankment, Selly Oak Station, Bristol Road, Selly Oak, Birmingham B3 1EU

- 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 2023/02151/PA, dated 30 March 2023, was refused by notice dated 24 May 2023.
 - The advertisement proposed is the display of 1no. internally illuminated replacement 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. The above regulations and the National Planning Policy Framework make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. I have taken development plan policies into account as a material considerations relevant to the main issue. I have also used the description as shown on the decision notice as a more accurate and detailed identification of the proposal.

Main Issue

4. The Council has not raised objection to the proposal in relation to amenity. I see no reason to disagree. The main issue is therefore the effect of the proposal on public safety with specific regard to the safe use of the highway.

Reasons for the Recommendation

5. The appeal site is located on a railway embankment before a bridge on the south-east side of Bristol Road, close to Selly Oak station. An existing digital advertisement display is in situ and has consent under Council reference 2016/01470/PA. This proposal intends to alter the advertisement panel to allow animated, scrolling or intermittent images. The size and position of the installation would not change.

6. The Planning Practice Guidance advises that advertisements are intended to attract attention. At points where drivers need to take more care are where advertisements are more likely to affect public safety. This includes junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing, or other places where local conditions present traffic hazards.
7. By virtue of its location and orientation, the advertisement would not be visible to users travelling from a north easterly direction along Bristol Road. It would be seen on the approach from the south-west towards the signal controlled junction with Selly Oak station. This junction also includes a pedestrian crossing. At the time of my visit, I witnessed a steady flow of pedestrians at the crossing due to the proximity of the nearby supermarket, retail park and student accommodation.
8. A cycle lane runs adjacent to the main carriageway on Bristol Road on the approach to the signal controlled junction. A bus stop is located immediately after. This results in the cycle lane diverging into the main carriageway. A second junction with Heeley Road is located just north of the proposed advertisement. Whilst it is not signal controlled, at the time of my visit I observed multiple vehicles queuing to turn right into Heeley Road.
9. Bristol Road is relatively straight, which assists with visibility for drivers. Traffic volumes are likely to vary throughout the day and night. Nevertheless, and at busier times, the heightened activity in and around the junctions will require a greater degree of attention from users. Under such circumstances, the proposal has the potential to add to distraction at a point where concentration is needed, including looking out for cyclists merging, pedestrians and turning traffic. This would result in an adverse effect on the public's safe use of the highway.
10. I have reviewed the highway safety study. However, no contributory factor information is available for the accidents. Moreover, in the three examples cited in Birmingham the number of accidents increased once signage or advertisements had included full motion imagery. There is again a lack of contributory factor information in relation to the accidents in the examples of motion advertisements and the associated accident maps. Consequently, I cannot be certain that the motion imagery was not a contributory factor. It does not therefore provide a compelling reason to introduce an additional source of driver distraction at a location where conditions present traffic hazards that necessitates the attention of road users.
11. In accordance with the Regulations, I have taken into account the provisions of the development plan in so far as they are relevant. Although not determinative, where relevant to the appeal, there would be conflict with Policy PG3 of the Birmingham Development Plan (2017) and Policy DM2 and DM7 of the Development Management in Birmingham Development Plan Document (2021). These policies, amongst other matters, require proposals to create safe environments. A condition requiring an advertisement management strategy would not be sufficient to mitigate against the harm to public safety that I have identified. Furthermore, it would fail the tests of preciseness, reasonability and enforceability set out in the Framework.

Conclusion and Recommendation

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

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

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

John Morrison

INSPECTOR