



Appeal Decision

Site visit made on 16 July 2024

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2024

Appeal Ref: APP/P4605/Z/24/3341540

1 Fort Parkway, Birmingham B24 9AW

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr Ajaz Mahmood against the decision of Birmingham City Council.
 - The application reference is 2023/08470/PA.
 - The advertisement proposed is the display of 3no freestanding digital advertisement boards.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Consent is sought for 3 freestanding internally illuminated digital advertisements in different locations within the site, which are referred to in the submitted evidence as signs or locations 1, 2 and 3. For consistency, I shall take the same approach.
3. Reference is made to various planning policies and guidance, to which I have had regard as relevant considerations. Powers under the Regulations to control advertisements may only be exercised in the interests of amenity and public safety, taking account of any material factors. In my assessment and determination of the appeal, the planning policies and guidance have not, therefore, by themselves been decisive.

Main Issue

4. The Council raises no objection in relation to amenity. From the evidence before me, I have no reason to disagree with this finding. Consequently, the main issue is the effect of the proposed advertisements on public safety, with particular regard to highway safety for users of the Bromford Lane Gyratory and the M6 motorway.

Reasons

5. The site is near to the busy Bromford Lane Gyratory, which for brevity is referred to hereafter as the Gyratory. It is also close to an elevated section of the M6 motorway, which National Highways (NH) describes as one of the busiest parts of the motorway network in the UK. Along this stretch of motorway, NH advise that drivers are required to pay full attention due to the

proximity of a main junction, real-time gantry signage and traffic frequently changing speed and manoeuvring between lanes to either join or leave the M6. Both NH and the Council raise strong concern that the proposed advertising would be unduly distracting to oncoming road users and so be detrimental to highway safety.

The Gyratory

6. There is nothing unusual or overly complex about the Gyratory, with traffic circulating beneath the M6 along a mainly 3-lane carriageway from which there are a number of exit routes. Each junction follows a conventional layout with traffic signals, lefthand turning lanes, white painted road letters and signage that is reasonably clear. However, in each case, the new advertisement would come into view on a short stretch of carriageway just ahead of a junction with traffic signals where drivers and cyclists need to take particular care.
7. During the mid-afternoon site visit, I saw that the Gyratory and the roads that connect with it were very busy. To my mind, this high level of activity requires the concentration of roads users to be maintained, particularly on the approach to a junction. I also observed that drivers sometimes change lane to reflect their intended exit from the Gyratory and, in some cases, to avoid queuing traffic. While the considerable volume of traffic and presence of signals often create relatively low speeds, drivers approaching these junctions still require a high degree of attention and concentration to safely navigate them.
8. For southbound users of the Gyratory, the new display at Location 1 would become evident as the carriageway gently rises to a brow just before the junction beyond comes into full view. The prominence of the new advertisement, due to its elevated position, illumination and frequently changing displays, would draw the eye. It would divert the attention of road users even momentarily exactly at the point where vehicles may be changing lanes or speed to navigate through the forthcoming junction. By standing in the immediate foreground to an existing direction sign on the same side of the road, the proposal would also visually compete with and so distract from the valuable highway information displayed at that point.
9. The new displays at Locations 2 and 3 would be visible on the immediate approach to the traffic light junction between Bromford Lane and Fort Parkway. Notwithstanding their urban roadside context, each new sign, due to its scale, illumination, frequently changing display and elevated position would introduce a visually dominant feature into a prominent location. In doing so, the new signs, taken individually and together, would unduly attract the attention of drivers where full concentration on the road ahead is required given the need to safely navigate the junction beyond.
10. For many northbound drivers using the Gyratory, the new advertisement at Location 3 would be seen just behind and to one side of the head of a traffic signal. The prominence of the new advertisement and the frequently changing display in the same field of view to the head of a traffic light could draw the eye, diverting the attention of road users. A change in the colour of the image on the new advertisement from red to amber or green for instance could be glimpsed and misinterpreted by some drivers as a signal to move forward from the stop line. Even though the carriageway is reasonably straight as it approaches this advertisement, full concentration on the road ahead is still

required even from people that are familiar with local highway conditions and take reasonable care of their own and others' safety.

11. According to the appellant, there are no recorded accidents in relation to the Gyratory. However, this finding does not necessarily mean that the Gyratory is an appropriate location to introduce roadside advertisements, as proposed.

M6 motorway

12. The proposal at Location 1 would generally face towards the elevated section of the M6 at a lower level relative to the main carriageway. In this position, I doubt that the proposed display would be readily evident from most cars and to motorcyclists. It may, however, be visible to drivers of Heavy Goods Vehicles traveling north or south on the M6 given their raised position in the vehicle relative to the road and the orientation of the new display.
13. If that is the case, the new display would attract the attention of such drivers on a busy stretch of motorway that NH advise has limited emergency refuge areas and a collision rate that is significantly higher than the national average. Whether or not any of these collisions were directly attributable to the presence of advertising, there is an obvious safety risk of introducing a potential distraction to motorway users.
14. Because the displays at Locations 2 and 3 would be single sided and generally face away from the M6, only the back of the new signs would be evident to those travelling along the motorway. Consequently, these proposed displays would not unduly distract users of the M6.

Conclusion on the main issue

15. Overall, for the reasons given, I conclude on the main issue that each of the new advertisements would be unduly distracting to road users and pose a significant safety hazard. As a result, the proposal would be materially harmful to public safety.

Other matters

16. The context of the site is predominantly commercial in character within which roadside advertisement displays are, in general, a familiar feature. The appellant has referred to a number of existing digital advertising displays and hoardings that are visible when travelling along roads in the surrounding area. I note that numerous proposals for advertisements have been decided by the Council in recent years, which the appellant has extensively listed. Various planning appeal decisions are also referred to. In my experience, it is rare that direct parallels can be drawn between individual proposals because local circumstances often vary. While I have had careful regard to all these details, each proposal should be assessed on its own merits, in relation to the relevant matters of amenity and public safety, which I have done.
17. Being noticeable in the street scene obviously reflects the main purpose of the new displays, which is to attract the attention of road users as they pass by. I acknowledge that roadside distractions can sometimes form part of a driver's experience. However, an appropriate balance needs to be struck between allowing businesses to engage with others and protecting public safety.

18. In support of the proposal, the appellant has submitted a report entitled *Driven to Distraction: Determining the Effects of Roadside Advertising on Driver Attention*. The main thrust of the study is that roadside advertising can pose a distraction for drivers and, as a result, prudence should be exercised when authorising or placing particular advertisements. I share that general view.

Conclusion

19. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR