



Appeal Decision

Site visit made on 3 September 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 September 2024

Appeal Ref: APP/P4605/Z/24/3338280

Land on south side of Small Heath Highway, Hay Mills, Birmingham B10 0DQ

- 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 Wildstone Estates Ltd against the decision of Birmingham City Council.
 - The application Ref 2023/06677/PA, dated 28 September 2023, was refused by notice dated 14 December 2023.
 - The advertisement proposed is display of 2no. internally illuminated 48 sheet digital LED advertisement panels.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. 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, with the Framework adding that cumulative impacts can be taken into account.
3. As such, the second reason for refusal, as it relates to biodiversity, cannot be taken into account as it does not fall under the grounds that can be objected upon, namely amenity and public safety.

Main Issue

4. In this instance, the main issue is the effect of the proposal on public safety as it relates to the highway safety for road users.

Reasons

5. The Small Heath Highway is the A45 which runs to and from Birmingham City Centre, and in the area of the appeal site, landscaping predominately in the form of trees and shrubbery are prevalent in the area, dotted with buildings of various types, but the outlook for the driver using the A45 at this point is mainly of greenery. One advertisement sign would face eastbound traffic, one to face westbound traffic heading toward the City Centre.
6. The panels would be standard "48 sheet" size, being 6m in width, 3m in height and would be mounted on a plinth 2.5m above ground level so as to be fully visible for drivers using the A45.

7. I have no doubt that the advertisements would meet all relevant best practice guidance, but there is no doubt that the size of the advertisement and its illumination would result in a visually prominent feature that would be noted by drivers.
8. At this section of the inbound route, there are a number of highway signs, which also include a sign indicating a bus lane and lane changes, as well as a driver information sign. The presence of the sign, its illumination and periodic changing of the signage on rotation would distract highway users at a point where the attention of drivers is paramount due to the nature of the highway surroundings as identified above. I find that an advertisement with changing displays and illumination would be unduly distracting to drivers in an area that is high in levels of things that fight for the attention of drivers, when concentration is absolutely necessary.
9. Therefore, I must err on the side of caution in respect of these issues in the determination of this appeal. The advertisement presents several potential risks to public and highway safety, and it has not been demonstrated that these can be adequately mitigated. Therefore, the advertisement harms public safety.
10. Whilst not decisive, the proposal would also conflict with Policy PG3 of the Birmingham Development Plan (2017) and policies DM7 and DM14 of the Development Management in Birmingham DPD (2021) which amongst other matters, expects advertisements to be suitably sited, located and designed to not have detrimental impact on public safety and that the safety of highway users is properly taken into consideration.
11. Dismissing the appeal would also accord with paragraph 115 of the Framework which states development should be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Conclusion

12. The proposal does not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate I should take a different decision other than in accordance with this.
13. For the reasons outlined above, I conclude the appeal should be dismissed.

Paul Cooper

INSPECTOR