



# Appeal Decision

Site visit made on 9 July 2024

**by S Pearce BA(Hons) MPlan MRTPI**

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

**Decision date: 28<sup>th</sup> October 2024**

---

**Appeal Ref: APP/P4605/Z/23/3336030**

**2 Stirling Road, Edgbaston, Birmingham B16 9SB**

- 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 Opus Edgbaston Developments Limited against the decision of Birmingham City Council.
  - The application Ref is 2023/05066/PA.
  - The advertisement proposed is described as an “application for express consent for the temporary display of 3no. LED advertising screens”.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The powers to control advertisements under the Town and Country Planning (Control of Advertisements)(England) Regulations 2007 (the Regulations) may be exercised only in the interests of amenity and public safety, taking account of any material factors including development plan policies as a material consideration. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) reiterate this approach.
3. The Council has referred to the effect on the setting of nearby listed buildings. The requirements of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) do not apply to proposals for advertisement consent because that statutory duty only applies to the consideration of planning applications made under The Town and Country Planning Act 1990. Nonetheless, features of historic or architectural interest are relevant when assessing the general characteristics of the area and I have taken account of the presence of nearby listed buildings in considering the impact on amenity.
4. The Council has cited conflict with Policy DM7 of the Development Management in Birmingham Development Plan Document 2021 (DPD), Policies PG3, TP12 and TP44 of the Birmingham Development Plan 2017 (BDP) and the Framework. While I have taken these policies into account as a material consideration, the powers to control advertisements under the Regulations may be exercised only in the interests of amenity and public safety. Consequently, in my consideration of this appeal the Council’s policies and the Framework are not, in themselves, decisive.
5. The appellant’s name provided on the appeal form differs from that on the planning application form. The appellant has confirmed that the two companies listed are the same company. Therefore, I have used the name

provided within the planning application form within the banner heading above.

## **Main Issues**

6. The main issues are the effect of the proposal on:

- the visual amenity of the area, having regard to the presence of nearby Grade II listed buildings, and
- public safety.

## **Reasons**

### *Visual amenity*

7. The appeal site is located on Hagley Road, a main highway into and out of Birmingham city centre. The area is characterised by predominately large buildings of varying architectural styles and periods, including modern and historic buildings. The built form is typically located in a linear arrangement fronting, but set back from, the highway, behind relatively low boundary treatments. Hagley Road is tree-lined and along with frontage vegetation and carriageway width, the area has a spacious and verdant feel.
8. The appeal site is close to a number of Grade II listed buildings, identified in the Council's reason for refusal and the appellant's supporting documents<sup>1</sup>. Closest to the appeal site, at the junction of Stirling Road, is 215 Hagley Road (Ref: 1211705), a prominent three storey, red brick building, with a frontage facing Hagley Road and a stuccoed side elevation facing Stirling Road. Adjacent to this lies St Chad's Hospital, 213 Hagley Road (Ref: 1076351), a three storey, red brick building, which faces onto Hagley Road.
9. On the opposite side of Hagley Road, is The Garden Hotel, 154 Hagley Road (Ref: 1075559), a two storey building, with three bays and stucco finish. Alongside this building is the Royal College of Nursing education Centre, 162 Hagley Road (Ref: 1075560), a two storey stuccoed building, with three bays and giant pilasters left and right.
10. While noting that there has been recent development within the setting of some of these buildings, their significance, insofar as is relevant to this appeal, is derived through their architectural design, materials and the contribution they make to the public realm.
11. Existing signage in the vicinity of the appeal site is predominately subtle, small scale and associated with the highway or business premises. While there is some street furniture to the front of the appeal site, including streetlights and a telephone box, this section of Hagley Road is generally free of larger advertisement displays. The lack of digital advertisements and the generally uncluttered street scene contributes towards the historic, open and verdant character of the area.
12. The appeal scheme seeks to erect three large LED advertising screens on the appeal site frontage that adjoins Hagley Road. They would be sited above the existing low wall and integrated into, and no higher than, the advertisement

---

<sup>1</sup> Appellant's Statement of Case December 2023, including appendices and Core Documents, Heritage Impact Assessment June 2023 and Hearing Statement: Expert Report (Heritage) December 2023

hoarding<sup>2</sup>. The signs are intended to complement the advertisement hoarding, which is not restricted by specific colour or graphics. The appeal scheme would display marketing and promotional information for the approved Integrated Retirement Community (IRC) development<sup>3</sup>. As it would be supplementary to the advertisement hoarding, it would enable a greater range of information to be displayed throughout the day.

13. Although the appellant intends to display the same images on both the appeal proposal and advertisement hoarding, the illumination and frequency of the changing imagery would, nevertheless, distinguish the LED advertising screens from the hoarding. While the advertisements are required for a temporary period and would be removed once the IRC is fully operational, nevertheless, three substantial illuminated advertisements, sited close together, in prominent locations, would represent a conspicuously modern, unsympathetic and stark addition to the street scene.
14. The illuminated advertisements with changing static imagery, particularly the centrally located screen and the screen adjacent to the Stirling Road junction, would be prominent in views towards the nearby listed buildings, 213 and 215 Hagley Road. The centrally located screen and the screen adjacent to the Portland Road junction, would also be visible in longer range views towards 154 and 162 Hagley Road.
15. While noting the externally illuminated Clarendon Suites signage at the corners of the appeal site and the positioning of the proposal in respect to the hoarding, the proposed advertisements would be overtly modern and eye-catching and would detract from views towards the listed buildings from public vantage points along Hagley Road. Consequently, the proposal would fail to preserve the significance of the listed buildings through harmful development within their setting.
16. The Regulations require that I exercise my powers with regards to amenity and public safety only. Therefore, a public balancing exercise, as referenced in the Council's decision notice, is not required.
17. For these reasons, I conclude that the proposed advertisements would have an unacceptably harmful effect upon the visual amenity of the area, including on the setting of the nearby Grade II listed buildings. In reaching the decision, in accordance with the Regulations, while not determinative, I have taken into account DPD Policy DM7, BDP Policies PG3 and TP12 and the Framework. Collectively, these seek, among other matters, to ensure new development reinforces local distinctiveness, protects the historic environment and that advertisements are suitably located, sited and design having no detrimental impact on amenity and so are material in this case. Given that I have concluded the proposal would harm amenity, accordingly the proposal conflicts with these policies.

### *Public safety*

18. The PPG states that all advertisements are intended to attract attention but those located at points where drivers need to take more care are more likely to affect public safety. Such locations include junctions and pedestrian crossings. It further advises that the main types of advertisement which may

---

<sup>2</sup> Advertisement consent reference: 2022/03281/PA

<sup>3</sup> Planning application reference: 2017/04158/PA

cause danger to road users are those which are illuminated, which could be mistaken for, or confused with, traffic lights and those which are subject to frequent changes of display.

19. The appeal site is located on Hagley Road, a dual carriageway, between the junctions with Stirling Road and Portland Road. The Portland Road junction is at an oblique angle to Hagley Road and signal-controlled, with a pedestrian crossing. A further set of traffic lights, to control a pedestrian crossing, are located on the other side of the Stirling Road junction to the appeal site.
20. The appellant highlights that at typical peak rush hour times the highway is congested, and vehicles are not travelling at the 30mph speed limit. While only a snapshot in time, during a quieter part of the day, during my site visit I observed a near constant flow of traffic in both directions along Hagley Road. These conditions are consistent with Hagley Road being a main, arterial route into and out of Birmingham city centre.
21. Like the advertisement hoarding, the siting and location of the proposed advertisements would be highly prominent and clearly visible to drivers approaching the appeal site. The two corner LED advertising screens would be orientated at an angle to oncoming traffic, which would allow drivers to see the imagery without looking significantly away from the road or traffic signals. However, the centrally located sign would be parallel to the highway and would not be in drivers' immediate line of sight. As such, it would draw drivers' attention away from the road and nearby traffic signals.
22. The two corner screens would be sited close to the traffic signals at the Portland Road junction and the pedestrian crossing close to the Stirling Street junction. The siting and orientation of the two corner screens would, as evidenced by the CGI images in the supporting documents<sup>4</sup>, result in some merging of the screens with the respective traffic signals.
23. The brightness of the advertisements would be controlled so they are no brighter than the traffic signals. Moreover, the image change frequency would be no more than once every 2 minutes and images would be displayed using a bright-bright sequence. While such measures would help to minimise the risk of drivers' being distracted and ensure the screens do not compete with the signals, advertisements by their very nature are designed to capture the attention of road users.
24. Therefore, even with the mitigation measures proposed, the proposed siting, layout, scale and illuminated nature of the advertisements, together with the static moving images, are likely to cause driver distraction at a point where vehicles are approaching the signal-controlled junction and pedestrian crossing, to the detriment of highway safety.
25. It has been highlighted that the appellant can manually change the images on the advertisement hoarding on a daily basis. The appeal schemes images would, nevertheless, change at more frequent intervals, which is more likely to draw drivers' attention when compared to the hoarding.
26. Consequently, I conclude that the proposal would harm public safety. In accordance with the Regulations, while not determinative, I have taken into

---

<sup>4</sup> Appellant's Statement of Case December 2023, including appendices and Core Documents, and Hearing Statement (Transport) December 2023

account DPD Policy DM7, BDP Policy TP44 and the Framework. Collectively, these seek, among other matters, to ensure new development supports the safe use of the existing transport network and that advertisements are suitably located, sited and design having no detrimental impact on public safety and so are material in this case. As I have concluded the proposal would harm public safety, the proposal therefore conflicts with these policies.

### **Other Matters**

27. I have had regard to the standard conditions set out in Schedule 2 of the Regulations and additional conditions suggested by the appellant to control the brightness, frequency, type and sequencing of images. Nevertheless, the proposed conditions would not overcome the harm that I have identified to amenity and public safety.
28. While the appellant highlights that there is a lot of information to provide to the public, due to the extensive facilities offered by the IRC, there is limited substantive evidence to demonstrate the advertisement hoarding would be cluttered in the absence of the appeal proposal.
29. The appeal scheme may provide environmental benefits when compared to a hoarding, through carbon footprint reduction and physical disruption to the area, as it would require fewer physical site visits and result in less waste. However, this proposal is for new advertisements, rather than replacements, and they would be utilised alongside an advertisement hoarding.
30. A number of other advertisements have been drawn to my attention, including those at the Hagley Road, Rotten Park Road and Norfolk Road junction, the Hagley Road, Clarendon Road and Portland Road junction, St Chad's Court and at and nearby the Hagley Road and Monument Road and Chad Road junction. These relate to different locations and different types of advertisements to that proposed as part of the appeal scheme. As such, they are not directly comparable, and I have determined the proposal based on its merits.
31. Following approval of the IRC, the appellant has confirmed that demolition has been completed and construction works are imminent. In view of this, the appellant asserts that a temporary hoarding, to the height of the proposed LED advertising screens, could be installed, under permitted development rights, around the site, of any prominent colour, without planning permission. This is not directly comparable as any such colour would be static and not illuminated. In any case, I have considered the appeal on its own merits.
32. Concerns raised in respect of the Council's handling of the applications for development and advertisement proposals, including alleged inconsistencies in respect of assessing heritage matters, are not matters for me to consider within the context of this appeal.

### **Conclusion**

33. For the reasons given above, I conclude that the proposed advertisement would be detrimental to the interests of amenity and public safety. Accordingly, the appeal should be dismissed.

*S Pearce*

INSPECTOR