

REPORT OF CHIEF PLANNER

Intu, Victoria Centre

1 SUMMARY

Application No: 15/02696/ADV2

Application by: Nathaniel Lichfield & Partners on behalf of Intu Properties Plc

Proposal: Digital media screen above south entrance.

The application is brought to Committee because this is an application on a prominent site where there are important design and heritage considerations.

To meet the Council's Performance Targets this application should have been determined by 16th December 2015

2 RECOMMENDATIONS

1. Grant consent subject to the indicative conditions listed in the draft decision notice at the end of this report.

Power to determine the final details of the conditions to be delegated to the Chief Planner

3 BACKGROUND

- 3.1 The application site is the southern entrance into the Victoria Centre, which is on the corner of Milton Street and Lower Parliament Street. This main entrance was recently redesigned as part of the comprehensive improvement of the Victoria Centre with planning permission for these works having been granted on 23 January 2014 (Ref. 13/02822/PFUL3). The entrance has been expressed with a projecting box in polycarbonate cladding over a section of clear glazing.
- 3.2 The application site is adjacent to the boundary of the Old Market Square Conservation Area, which runs along the middle of Lower Parliament Street and then up Milton Street, therefore wrapping around the corner entrance to the Victoria Centre.

4 DETAILS OF THE PROPOSAL

- 4.1 The proposal is for a large digital media screen above the southern entrance. The screen would replace the polycarbonate cladding over the entrance doors and would be a permanent feature that would be used for the display of commercial advertisements and other images. There would be no moving images or sound.

5 CONSULTATIONS AND OBSERVATIONS OF OTHER OFFICERS

Adjoining occupiers consulted:

The application has been advertised by a site notice.

Additional consultation letters sent to:

Highways: No objection provided that images remain static and that there is a minimum frequency of 10 seconds between changing images. Advise that these aspects should be controlled by planning conditions in the interests of highway safety. Full-motion advertisements would constitute too great a distraction at this location where footfall is very high and where there have been a significant number of accidents in the last 5 years.

Pollution Control: The submitted documentation does not go as far as to determine the levels of illumination at the nearest residential windows, which are flats above 5-13 Upper Parliament Street. Luminance level details are required to ensure that light from the screen does not cause a nuisance to these residents.

Nottingham Civic Society: Objects to this application because of its detrimental impact upon the Old Market Square Conservation Area. The boundary of the conservation area faces the application proposal. The settings of buildings would be overshadowed by this very large advertising screen. This proposal would represent a very unfortunate precedent for similar screens elsewhere in the historic core of the city centre. It contravenes Historic England's advice for siting permanent large advertising screens in city centres. The Council should prepare strategic guidance for such features where they could bring a sense of vitality without harming the historic character of existing conservation areas and their heritage assets. In addition, located at the busiest pedestrian crossing point in the city centre, pedestrian and driver distraction from the large scale advertising (with or without accompanying sound) must represent a hazard to road safety with the potential for accidents increased. This application should be refused.

6 RELEVANT POLICIES AND GUIDANCE

National Planning Policy Framework:

Para 67. Poorly placed advertisements can have a negative impact on the appearance of the built and natural environment. Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

Para 129. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Nottingham Local Plan (November 2005):

BE12 - Development in Conservation Areas.

BE19 - Advertisements.

Aligned Core Strategies (September 2014):

Policy 10: Design and Enhancing Local Identity

Policy 11: The Historic Environment

7. APPRAISAL OF PROPOSED DEVELOPMENT

- 7.1 Digital Media in the form of large public digital screens is a relatively new medium for advertising and communication. They are though increasingly found in shopping centres and more recently within the city centres of other core cities. Being a new concept, little specific guidance or policy is available at national or local level. The proposed digital media screen in this application is therefore to be considered against existing planning policies.
- 7.2 Historic England's advice on 'Large Digital Screens in Public Places' is mentioned in the response of the Civic Society. This guidance which was published in November 2009 has been archived and has not been replaced. Whilst not being a material planning consideration, the guidance did make reference to the need to establish what the benefits to a local area would be, recognising that large digital media screens can have a disproportionate impact on public spaces. The advice has been helpful in assessing the impact on the immediate vicinity and city centre as a whole.
- 7.3 Where large digital screens are sited appropriately and their content appropriately managed, they have the potential to contribute positively to city centre spaces and support local policy objectives such as place-making, regeneration, economic development and community engagement.
- 7.4 The scale and prominence of the proposed digital media screen is without question and is, of course, intended to attract attention. The southern entrance to the Victoria Centre is one of the busiest pedestrian routes within the city centre and is also a space where the commercial benefits of a digital media screen may be readily understood. Given this context and the significant impact that a large digital screen can have, it is very important to assess the impact from its presence on the visual amenity of the area around the southern entrance and the character and appearance of the neighbouring conservation area.

Main Issues

Turning to the main policy issues - whether:

- (i) The development will affect/harm the visual amenity of the area including the adjacent Old Market Square Conservation Area.
- (ii) The development will be detrimental to highway safety.

Issue (i) The visual amenity of the area and Old Market Square Conservation Area (Policies BE12 and BE19, Policies 10 and 11)

- 7.5 The screen would be visible in views towards the Victoria Centre southern entrance. These views are limited to the upper section of Clumber Street where the entrance becomes fully visible at a point where it clears the constraint of the buildings on the eastern side of Clumber Street, and from the southern side of Upper Parliament Street again to a point where the buildings at the corner of Upper Parliament Street and Milton Street obscure its full view at around the point of the listed Express Chambers building (17 – 25 Upper Parliament Street). The screen would not be visible from the lower section of Clumber Street, the north side of Upper Parliament Street, Lower Parliament Street or Milton Street. Its visual impact is therefore generally focussed around the entrance into the Victoria Centre including the street intersection and pedestrian crossings.
- 7.6 Whilst it is considered that the digital media screen will have a very strong presence in the space around the southern entrance, it is also considered that this space is already a hub of activity and visual variety that can sustain the impact that the proposed screen would cause. The backdrop of the mass of the Victoria Centre and its recent architectural revamp at this entrance allow the screen to be successfully integrated in appearance and provide a context so as to comfortably accommodate the digital screen. The high quality nature of the display will also provide significant benefit to the vibrancy of this part of the city centre and contribute to the continued success of the city as a retail and visitor destination.
- 7.7 Furthermore, it is not considered that the proposed screen would be detrimental to the character and appearance of the Old Market Square Conservation Area as it will be viewed from and not against the backdrop of the heritage assets within the Conservation Area. It is, therefore, concluded that the proposed screen accords with the NPPF and Policies BE12 and BE19 of the Local Plan and Policies 10 and 11 of the Aligned Core Strategies.

Issue (ii) Highway safety (Policy BE19)

- 7.8 The screen would primarily be visible to pedestrians heading north from Clumber Street and crossing Upper Parliament Street, pedestrians heading east along Upper Parliament Street and crossing Milton Street and motorists heading east along Upper Parliament Street.
- 7.9 The Highways Road Safety team had considered that the applicant's original proposal for a full motion LED screen would constitute too great a distraction to pedestrians and traffic at this location, particularly where it has been noted that pedestrian behaviour at the junction has been observed as being quite unpredictable. The applicant has subsequently revised their proposal to the display of static images only and that the frequency of image change would be controlled to 1 image every 10 seconds. There applicant has also confirmed that there would also be no sound. The Highways team have subsequently advised that this would now be acceptable from a highway safety perspective. Accordingly it is considered that the proposal accords with Policy BE19 in relation to highway safety at this point in the road network.

Other Matters

- 7.10 The applicant has submitted a Code of Conduct under which the Screen would be

operated. It includes provision would for 10% guaranteed advertising space on the screen for Council and community use. It also sets out the manner in which the Screen would be operated. The Code of Conduct would be an approved document as part of advertisement consent for the digital media screen insofar as the Code's provisions are relevant to amenity and safety considerations.

7.11 The comments of Pollution Control in relation to luminance levels and proximity of residential windows on Upper Parliament Street are noted and a planning condition is recommended to require the submission and approval of these details, including reduced luminance levels throughout the night hours.

7.12 The application was submitted in December 2015. During this time officers have carefully considered the likely impacts and benefits of digital screens in the city. This has culminated in a draft Interim Planning Policy Statement which is also on this agenda for comment by Planning Committee. This is a policy document and therefore requires adoption at Executive Board. It would have been preferable to have a policy statement adopted in advance of determining this application. However, the delay in considering the application for the digital screen has now been substantial and the applicant has requested a decision. It is not felt necessary to delay this decision any further and the application can be properly and fully assessed against existing planning policy.

8. SUSTAINABILITY / BIODIVERSITY

None.

9 FINANCIAL IMPLICATIONS

None.

10 LEGAL IMPLICATIONS

10.1 The application is for advertisement consent, which is subject to a separate control process within the planning system. Determination is in accordance with the Town and Country Planning (Control of Advertisements) England Regulations 2007, which is a less restrictive regime than for planning applications.

10.2 Under Regulation 3(1) of the 2007 Regulations, the display of advertisements can be controlled only in the interests of amenity and public safety. Neither term is exhaustively defined in the legislation.

10.3 Regulation 3(4) of the 2007 Regulations states that unless it appears to the local planning authority to be required in the interests of amenity or public safety, an express consent for the display of advertisements shall not contain any limitation or restriction relating to the subject matter, content or design of what is to be displayed.

10.4 "Amenity" is stated to include aural and visual amenity. Factors relevant to amenity are stated by Regulation 3(2)(a) to include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.

10.5 Factors relevant to public safety are stated by Regulation 3(2) to include the safety

of persons using any highway, whether the display of the advertisement is likely to obscure or hinder the ready interpretation of any traffic sign, and whether the display of the advertisement is likely to hinder the operation of any device used for security or surveillance or for measuring the speed of any vehicle.

- 10.6 Aspects of the applicant's proposals which relate to amenity or public safety (for example displaying images in static form only by reason of highway safety) are relevant to the Committee's consideration of the application and may be controlled by condition.
- 10.7 However, elements of the proposals which are not concerned with amenity or public safety are not matters to which the Committee may have regard in determining the application. Neither may the planning authority control by condition elements of the proposals which relate to the content or subject matter of what is to be displayed. The Council may, in a capacity other than as planning authority, enter into a contractual relationship with the applicant to secure compliance, but absent such a relationship, the applicant's delivery of those elements will be a voluntary arrangement.

11 EQUALITY AND DIVERSITY IMPLICATIONS

None.

12 RISK MANAGEMENT ISSUES

None.

13 STRATEGIC PRIORITIES

None.

14 CRIME AND DISORDER ACT IMPLICATIONS

None.

15 VALUE FOR MONEY

None.

16 List of background papers other than published works or those disclosing confidential or exempt information

1. Application No: 15/02696/ADV2 - link to online case file:

<http://publicaccess.nottinghamcity.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NWKBQTLYCB000>

2. Highways, 17.11.15 & 9.2.16

3. Pollution Control, 12.11.15

4. Nottingham Civic Society, 25.11.15

17 Published documents referred to in compiling this report

Nottingham Local Plan (November 2005)

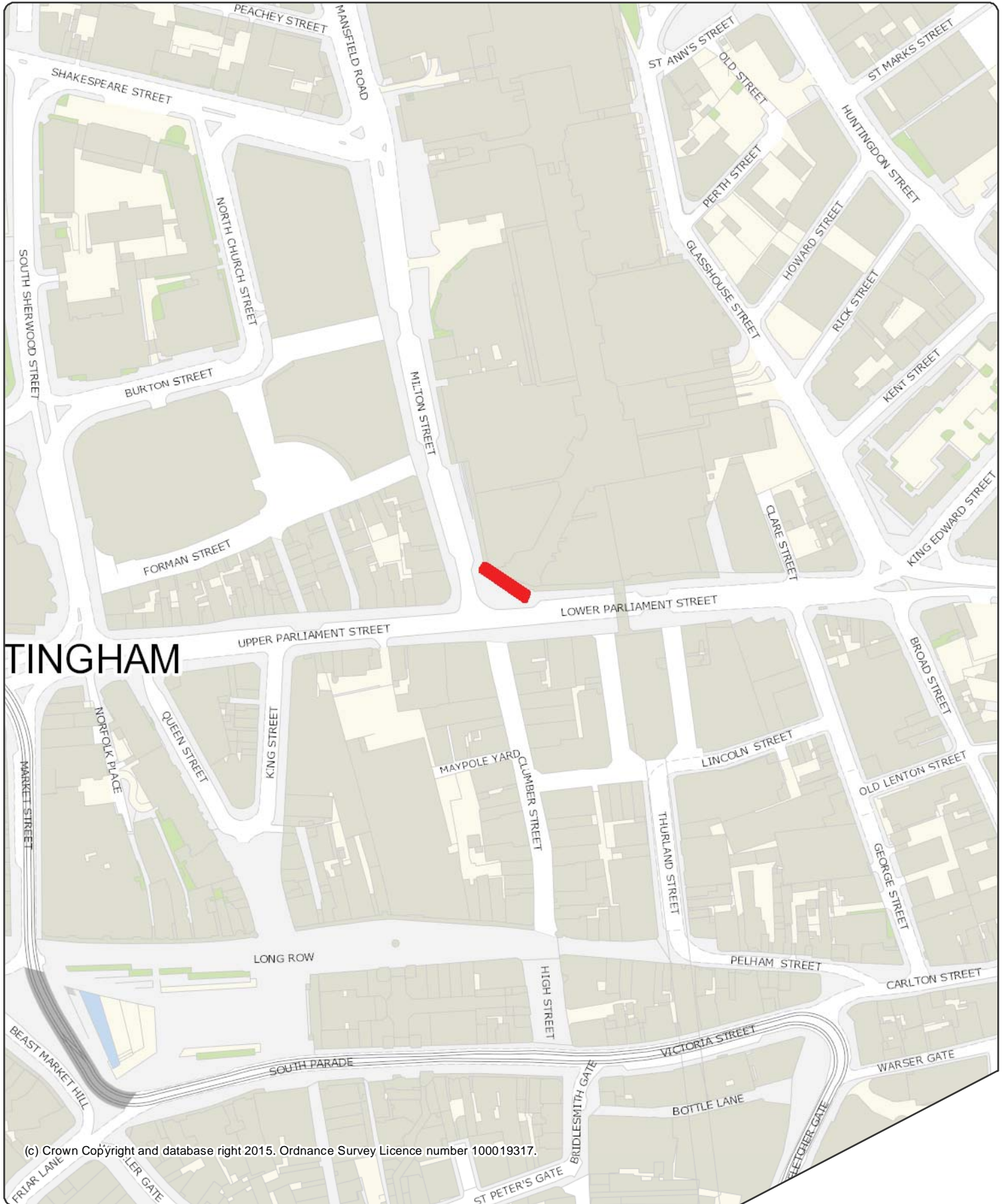
Aligned Core Strategies (September 2014)

Contact Officer:

Mr Jim Rae, Case Officer, Development Management.

Email: jim.rae@nottinghamcity.gov.uk Telephone: 0115 8764074

NOMAD printed map

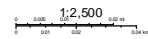


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Key

 City Boundary

Nomad web map printed by a Nomad user at 08:47, 13/09/2016



Description

No map description



My Ref: 15/02696/ADV2 (PP-04153903)

Your Ref:

Contact: Mr Jim Rae

Email: development.management@nottinghamcity.gov.uk



**Nottingham
City Council**

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Tel: 0115 8764447
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Nathaniel Lichfield & Partners
FAO: Mr Matthew Williams
14 Regent's Wharf
All Saints Street
London
N1 9RL

Date of decision:

**APPLICATION TO DISPLAY ADVERTISEMENT UNDER TOWN AND COUNTRY PLANNING
(CONTROL OF ADVERTISEMENTS) REGULATIONS**

Application No: 15/02696/ADV2 (PP-04153903)
Application by: Intu Properties Plc
Location: Intu, Victoria Centre, Milton Street
Proposal: Digital media screen above south entrance.

Nottingham City Council as Local Planning Authority hereby **GRANTS CONSENT** to display the advertisement(s) described in the above application subject to the following conditions:-

1. (i) The consent hereby given shall expire five years from the date of this notice.

(ii) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

(iii) No advertisement shall be sited or displayed so as to:-
 - a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - b) obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air; or
 - c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
(iv) Any advertisement displayed, and any site used for the display of the advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

(v) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

(vi) Where any advertisement is required under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: In accordance with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.



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Not for issue

Continued...

2. The approved digital media screen shall not be brought into use until maximum luminance level details to ensure that light from the screen does not cause nuisance to residential flats above 5 - 13 Upper Parliament Street, including reduced luminance levels throughout the night hours, have been submitted to and approved by the Local Planning Authority.

Reason: In the interest of the residential amenity of these residential flats and in accordance with Policy BE19 of the Nottingham Local Plan.

3. All advertisement and other images shall be static and without sound. There shall also be a minimum frequency of 10 seconds between changing images.

Reason: In the interests of highway safety and in accordance with Policy BE19 of the Nottingham Local Plan. Full motion advertisements would constitute too great a distraction at this location where footfall is very high and where there have been a significant number of accidents in the last 5 years.

Standard condition- scope of consent

- S1. Except as may be modified by the conditions listed above, the advertisement shall be displayed in complete accordance with:

- (1) the details described in the forms, drawings and other documents comprising the application as validated by the Council on 21 October 2015, and
- (2) the details in the Screen Code of Conduct received on 9 September 2016.

insofar as those details relate to matters of amenity or public safety.

Reason: To determine the scope of this consent.

Informatives

Your attention is drawn to the rights of appeal set out on the attached sheet.



RIGHTS OF APPEAL

Application No: 15/02696/ADV2 (PP-04153903)

If the applicant is aggrieved by the conditions imposed on the consent he or she may appeal to the Secretary of State in accordance with Regulation 17 of the Town & Country Planning (Control of Advertisements) (England) Regulations 2007 within **eight weeks** of receiving this decision notice.

Appeals must be made on a form which you can obtain from the Customer Support Unit, The Planning Inspectorate, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Phone: 0117 372 6372. Alternatively appeal forms can be downloaded from the Planning Inspectorate website at <http://www.planning-inspectorate.gov.uk/pins/index.htm>.

The Secretary of State does not have to accept an appeal if consent for the display of the advertisement could not have been granted by the Council because of the provisions of the Advertisement Regulations.



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