
Appeal Decisions

Site visit made on 30 July 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal A Ref: APP/X5990/Z/18/3218801

Junction of Buckingham Palace Road, Bressenden Place, London SW1W 0PP

- 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 Mr Neil Scoresby of British Telecommunications PLC against the decision of City of Westminster Council.
 - The application Ref 18/07603/ADV, dated 31 August 2018, was refused by notice dated 13 November 2018.
 - The advertisement proposed is two digital 55-inch LCD display screens, one on each side of the InLink unit.
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Appeal B Ref: APP/X5990/Z/18/3218236

Opposite Victoria Tube Station, outside Greenwood, 170 Victoria Street, London SW1E 5LB

- 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 Mr Neil Scoresby of British Telecommunications PLC against the decision of City of Westminster Council.
 - The application Ref 18/07416/ADV, dated 29 August 2018, was refused by notice dated 16 October 2018.
 - The advertisement proposed is two digital 55-inch LCD display screens, one on each side of the InLink unit.
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Appeal C Ref: APP/X5990/Z/18/3212665

Vauxhall Bridge Road (OS No. 326/330), Westminster, London SW1V 1AA

- 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 British Telecommunications PLC against the decision of City of Westminster Council.
 - The application Ref 18/04614/ADV, dated 29 June 2018, was refused by notice dated 13 August 2018.
 - The advertisement proposed is display of an internally illuminated digital LED display screen on two sides of the proposed free standing InLink.
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Appeal D Ref: APP/X5990/Z/18/3212669

Outside 80 to 90 Victoria Street, London SW1E 5JL

- 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 British Telecommunications PLC against the decision of City of Westminster Council.
- The application Ref 18/04590/ADV, dated 28 June 2018, was refused by notice dated

08 August 2018.

- The advertisement proposed is display of an internally illuminated digital LED display screen on two sides of the proposed free standing InLink.
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Appeal E Ref: APP/X5990/Z/18/3217287

Land Outside Boots, 107 Victoria Street, near junction of Wilcox Place, London SW1E 6RE

- 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 Mr Neil Scoresby of British Telecommunications PLC against the decision of City of Westminster Council.
 - The application Ref 18/07278/ADV, dated 24 August 2018, was refused by notice dated 18 October 2018.
 - The advertisement proposed is two digital 55-inch LCD display screens, one on each side of the InLink unit.
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Appeal F Ref: APP/X5990/Z/18/3218461

Outside No 50 Victoria Street, London SW1H 0TL

- 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 Mr Neil Scoresby of British Telecommunications PLC against the decision of City of Westminster Council.
 - The application Ref 18/07539/ADV, dated 31 August 2018, was refused by notice dated 31 October 2018.
 - The advertisement proposed is two digital 55-inch LCD display screens, one on each side of the InLink unit.
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Appeal G Ref: APP/X5990/Z/18/3212831

Highways land at Broadway, Outside St James Park Station, Broadway, London SW1H 0BH

- 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 British Telecommunications PLC against the decision of City of Westminster Council.
 - The application Ref 18/04593/ADV, dated 01 June 2018, was refused by notice dated 13 August 2018.
 - The advertisement proposed is display of an internally illuminated digital LED screen on two sides of the proposed free standing InLink.
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Appeal H Ref: APP/X5990/Z/18/3216499

Outside 70 Petty France, London SW1H 9HE

- 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 Mr Neil Scoresby of British Telecommunications PLC against the decision of City of Westminster Council.
 - The application Ref 18/07015/ADV, dated 17 August 2018, was refused by notice dated 03 October 2018.
 - The advertisement proposed is two digital 55-inch LCD display screens, one on each side of the InLink unit.
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Decision Appeal A

1. The appeal is allowed and express consent for the display of the advertisement as applied for is granted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached Schedule.

Decision Appeal B

2. The appeal is allowed and express consent for the display of the advertisement as applied for is granted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached Schedule.

Decision Appeal C

3. The appeal is allowed and express consent for the display of the advertisement as applied for is granted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached Schedule.

Decision Appeal D

4. The appeal is dismissed.

Decision Appeal E

5. The appeal is allowed and express consent for the display of the advertisement as applied for is granted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached Schedule.

Decision Appeal F

6. The appeal is dismissed.

Decision Appeal G

7. The appeal is dismissed.

Decision Appeal H

8. The appeal is dismissed.

Preliminary Matters

9. The appeals, when originally made, were each accompanied by an appeal against refusal to grant Prior Approval¹ for an Inlink Kiosk. However, following the *Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin)* judgement, those appeals have now been withdrawn. The structures on which the proposed advertisements would be mounted have not therefore been approved and do not exist. For the avoidance of doubt, therefore, my decisions relate solely to the merits of the proposals for advertisements. The

¹ Under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

appellant may or may not choose to seek permission for the kiosks as telecommunications apparatus at a later date.

10. The advertisements would all be sited in pavements and orientated so as to be at right angles to the highway. The submitted evidence indicates they would display double-sided images on panels measuring 121cm x 69cm and the bottom of the displays would be elevated some 1.38m above the level of the pavement. They would display static colour illuminated images which would change at intervals of 10 seconds and would automatically dim to a maximum illumination of 600 candelas per square metre at night.
11. Paragraph 132 of the National Planning Policy Framework (the Framework) explains that proposals for express advertisement consent may be determined only in the interests of amenity and public safety, taking account of cumulative impacts. Development Plan policies may also be material to the decision, however, and where relevant I have had regard to them as explained in my decision. In this respect, the refusal notices cite WCP Policies S28 and UDP Policies DES1, DES9 and related supporting text. However, those Policies are engaged only in relation to proposals for an act of development and so are not determinative in this appeal for express advertisement consent.
12. As set out above, whilst there are eight separate appeals, and the precise description of Appeals C, D and G vary from the other appeals, they seek express consent for an identical type of advertisement. I have considered all of the appeals on their individual merits and, whilst the cases are not linked, I have for convenience considered them on a conjoined basis and set out the decisions in a single letter.
13. Several of the appeal sites lie within or close to, conservation areas. Accordingly, in assessing each proposal, I have had regard to the statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and paid special attention to the desirability of preserving or enhancing the character or appearance of the relevant Conservation Area, insofar as it is relevant to amenity.
14. Similarly, some sites lie within the setting of listed buildings. I have therefore had regard to the desirability of sustaining and enhancing the significance of the setting of the listed buildings in line with paragraph 192 of the Framework, again to the extent that their significance relates to amenity.
15. For Appeal D, I have used the site address as given on the refusal notice, including the postcode as this more accurately describes the location of the site.

Main Issues

16. The main issues are the effect of the proposed advertisements on:
 - Visual amenity (*All appeals*);
 - Public safety having regard to highway safety (*Appeal A only*).

Reasons

Appeal A

Visual Amenity

17. The siting of the advertisement would be a short distance off the busy junction of Buckingham Palace Road and Bressenden Place. The overall location is one of contrasts, with a bar/restaurant with street tables immediately adjoining with what appears to be a "living wall" providing a element of vibrancy to the area. This is mirrored on the opposite side of the road with internally illuminated restaurant signage set into a modern, glazed building on the road junction. Furthermore, I saw that commercial and leisure redevelopment has taken place a short distance across the road at Sir Simon Milton Square which further reinforces the bustling character of the location.
18. The addition of an illuminated advertisement would not in my judgement be inconsistent with the prevailing character of the area and would not be harmful to its visual amenity. The site lies a short distance from but outside of both the Grosvenor Gardens (GGCA) and Royal Parks (RPCA) Conservation Areas. However, it is not read in the townscape as being a significant element in the setting of those areas. For the above reasons, therefore, I am satisfied having regard to the statutory duty, that the proposal would not fail to preserve or enhance the character or appearance of these Conservation Areas.
19. I have also had regard to the effect of the proposal on the setting of the Grade II listed row of buildings at 8-14 Buckingham Palace Road. The mid-19th century terrace is set diagonally across from the appeal site in the south west quadrant of the busy traffic light controlled crossroads. Given this degree of separation and its clear relationship with the busy multi-lane highway and its attendant assortment of urban paraphernalia, I find that the proposal would not fail to sustain or enhance its significance as required by paragraph 192 of the Framework.
20. In conclusion, therefore, I find the proposed advertisements would not be harmful to the amenity of the area and would not fail to sustain and enhance the setting of designated heritage assets.
21. I have taken into account Policy S25 of the adopted Westminster City Plan (Consolidated with all changes since November 2013) (November 2016) (the WCP) which seeks to conserve designated heritage assets and their settings. I have also had regard to Policy DES8 of the adopted Westminster Unitary Development Plan (January 2007) (the UDP) which aims to secure the highest standards of design in all advertisements. However, as no harm in respect of visual amenity would arise, I find no conflict with those Policies.

Public safety

22. The illuminated LCD screens would be sited at right angles to oncoming traffic with Bressenden Place but their luminosity is proposed to be limited after dark, as would the frequency with which the static images would change. The installation would also be set away from the busy cross roads with Buckingham Palace Road and Lower Grosvenor Place. I therefore have no substantive

evidence to indicate that the size, siting and method of illumination would be materially harmful to the safe movement of traffic.

23. The Council has not provided any policies which might be relevant to this matter. Nevertheless, for the above reasons I conclude on this main issue that the proposal would not be harmful to public safety.
24. In view of my conclusions on the main issues, Appeal A should be allowed.

Appeal B

25. The display panels would be sited within a broad pavement immediately outside a very substantial and architecturally striking glazed frontage to what it evidently a recent development. That development incorporates, at ground floor level, internal but prominent illuminated signage associated with a bar/restaurant and forms part of the wider 'Nova' retail and leisure development.
26. There is a sharp contrast between this northern side of Victoria Street in this locality, with its overtly modern and vibrant character. and the traditional and historic southern side of the street. In this regard, the Victoria station façade, together with Nos 15 and 16 Terminus Place and Nos 9-14 Terminus Place (façade only) are a Grade II listed building.
27. However, the clear contrast identified above is, in my view, a successful element of the lively character and appearance of this particular part of Westminster and the addition of illuminated signage would not be harmful to it or the to the setting of the listed building.
28. I appreciate the adjoining Nova development represents an important element in the regeneration of the Victoria area and I understand that individual occupiers' illuminated signs have been carefully managed as part of that scheme. Nonetheless, for the above reasons, I conclude that no harm would arise to the visual amenity of the area as a result of the proposed display panels. In turn, the proposal would not fail to sustain and enhance the listed building.
29. In reaching this conclusion I find no conflict with WCP Policy S25 which seeks to conserve designated heritage assets and their settings; nor UDP Policy DES8 which aims to secure the highest standards of design in all advertisements. Appeal B should therefore succeed.

Appeal C

30. The advertisements would be located on what is currently the site of two telephone boxes near the junction of Vauxhall Bridge Road/Victoria Street/Wilton Road junction. This area carries a heavy amount of traffic and is characterised by a very wide range of shop, office and other commercial uses in a range of types and styles of buildings. The street is also festooned with items of street furniture such as lampposts, bins, post boxes, bus stops and bollards. There are numerous sources of lighting reflecting the bustling, highly commercial nature of the area.
31. In this context, the addition of a double-sided advertisement would not, in my judgement, be harmful to the amenity of the area. The site lies within the

Westminster Cathedral Conservation Area, but given its location, as described above, I consider that it would not be harmful to its significance.

32. The Grade II* listed New Victoria Theatre lies a short distance to the south on the opposite side of Vauxhall Bridge Road. It is a distinctive building with steps leading up from street level under a broad canopy spanning the pavement to a concrete-faced façade with fluted architectural detailing.
33. However, the building is already adjoined by contemporary commercial buildings of unremarkable design and is set in the context of a range of urban clutter and activity as described above. Given its offset position from the appeal site, I find that no harm would result on the setting of the listed building as a consequence of the installation of the proposed advertisements.
34. I therefore conclude that the proposal would not be harmful to the visual amenity of the area or the character or appearance of the WCCA. It would also not fail to sustain and enhance the listed building. Given my conclusion, no conflict would arise with WCP Policy S25 which seeks to conserve designated heritage assets and their settings. I similarly find no conflict with UDP Policy DES8 which aims to secure the highest standards of design in all advertisements. Appeal C should therefore be allowed.

Appeal D

35. The appeal site lies on the north side of Victoria Street at a busy section of the road. It lies a short distance to the east of a broad pedestrian crossing linking a substantial glazed shopping mall with the Grade I listed Westminster Cathedral to the south. It also lies outside of, but on the edge of, the WCCA.
36. The Cathedral, formally titled The Metropolitan Cathedral Church of the Most Precious Blood, is a magnificent structure built between 1895–1903 with striking red brick and Portland stone banding and featuring a 284 ft campanile. It is set back from Victoria Street behind a broad, paved public square.
37. The appellant indicates that the proposed advertisements would replace two existing telephone kiosks. As such, it is contended that the proposal would be seen in the context of the modern buildings to the north of the Cathedral.
38. There are a wide range of shop units flanking the north side of Victoria Street with an assortment of illuminated advertisements and shop fascias. There is also a wide range of street furniture including refuse bins, street lighting and traffic lights, together with a bus stop with illuminated changing images on the street.
39. However, I saw on my site visit that the bus stop is some distance away to the east and the precise siting of the proposal is such that there would be inter-visibility between the appeal proposal and the Cathedral, and particularly the intervening square. Given the outstanding architectural sensitivity of the listed building I consider the introduction of illuminated advertisements, even if conditioned to limit the brightness and frequency of change in the images to be displayed, would be harmful to its setting. By extension, whilst outside the WCCA, this locality contributes positively to its setting and this would be harmed by the proposal.

40. Given the above, I therefore conclude that the proposed advertisements would be harmful to the amenity of the area and would fail to preserve or enhance the character or appearance of the WCCA or sustain and enhance the setting of the listed building. In doing so, the proposal would conflict with WCP Policy S25 which seeks to conserve designated heritage assets and their settings. It would also conflict with UDP Policy DES8 which aims to secure the highest standards of design in all advertisements. Appeal D should therefore be dismissed.

Appeal E

41. This part of Victoria Street feels somewhat enclosed by tall concrete and glass fronted buildings close to the highway edge. The proposed advertisements would, however, be sited on a broad section of pavement where the building line is stepped back.
42. There are a number of retail frontages in the vicinity of the site, including a department store with a substantial digital screen at street-level showing moving colour images. Also in the same stretch of pavement, is a bus shelter with illuminated advertisements.
43. In this context, the proposal would add to the extent of digital advertising but would not be inconsistent with the character of this part of the street. In my judgement, even taking into account the extent of the existing advertising, it would not introduce a cumulative harmful effect on the amenity of the area.
44. Whilst the site lies within the WCCA, it does not, given the immediate surroundings, contribute positively to the significance as the historic environment surrounding the Cathedral, and would not therefore be harmful in that respect. Similarly, there is no inter-visibility with the Grade I listed Cathedral at this point and so no harm to its setting in amenity terms would arise.
45. I therefore conclude that the proposal would not be harmful to the visual amenity of the area or the character or appearance of the WCCA. It would also not fail to sustain and enhance the listed building. Given my conclusion, no conflict would arise with WCP Policy S25 which seeks to conserve designated heritage assets and their settings. I similarly find no conflict with UDP Policy DES8 which aims to secure the highest standards of design in all advertisements. Appeal E should therefore be allowed.

Appeal F

46. The site is currently occupied by a red telephone box which the appellant indicates would be removed as part of a separate proposal.
47. Although the appeal site lies immediately outside Windsor House, a 16-storey modern building clad in dark stone, the contemporary high-rise buildings which characterise much of Victoria Street generally give way at this point to more traditional and historic brick-built buildings. The pavement also narrows in the vicinity of the site and adjoins Christchurch Gardens, a pocket park with dense tree cover, providing soft and attractive relief in the street scene.

48. The site lies within the designated Broadway and Christchurch Gardens Conservation Area (BCGCA) and in view of the above qualities, the appeal site makes a positive contribution to it.
49. There are a number of utilitarian items of street furniture in the immediate vicinity, including CCTV cameras, utilities boxes, bollards, an information totem and other paraphernalia. Moreover, a bus shelter a short distance to the east of the site already displays digital advertising.
50. In my judgement, the introduction of further such advertising would, cumulatively, have a harmful visual effect in this part of the BCGCA. In particular, the site is seen in the same context as Christchurch Gardens when viewed from the west and the proposal would be a distraction from, and harmful to, the pleasant landscaped vista from that perspective. In this regard, the harm that would arise from illuminated digital advertising would exceed that which is currently associated with the existing red telephone box.
51. Given the above, I conclude that the proposed advertisements would be harmful to the amenity of the area and would fail to preserve or enhance the character or appearance of the BCGCA. In doing so, the proposal would conflict with WCP Policy S25 which seeks to conserve designated heritage assets and their settings. It would also conflict with UDP Policy DES8 which aims to secure the highest standards of design in all advertisements. Appeal F should therefore be dismissed.

Appeal G

52. The proposed location of the advertisements is within a fairly wide pavement immediately outside the Grade I listed London Underground Headquarters including St James Park Underground Station and within the BCGCA. Whilst not a primary route, there are a variety of land uses in the area.
53. It is intended that the proposed screens would be located on the existing site of a pair of somewhat tired-looking glass-fronted telephone boxes. On approaching the site along the pavement from the south, the backdrop is dominated by an eight-storey building of little aesthetic merit, opposite the road junction.
54. However, from the opposite side of the road in the vicinity of the junction of Broadway with Dacre Street, an impressive view is gained of the listed building which reveals not only its distinctive concrete and Portland stone construction, but also allows an appreciation of its constituent parts including its central tower soaring above the main two-storey part of the building.
55. From this vantage point in particular, even if luminosity and the change-rate of images were to be controlled by condition, the proposal would appear prominently in the foreground as a distracting and discordant feature. I appreciate that there is already a range of uses in the area including retail, offices, hotels, restaurants, cafes and public houses. Consequently, there are already examples of illuminated signage. However, none impact on the setting of the listed building in the same way as that currently proposed, given the proposed position and orientation in the pavement.

56. For the same reasons, I consider the proposal would not conserve and enhance the character or appearance of the BCGCA.
57. Given the above, I therefore conclude that the proposed advertisements would be harmful to the amenity of the area and would fail to preserve or enhance the character or appearance of the BCGCA. In doing so, the proposal would conflict with WCP Policy S25 which seeks to conserve designated heritage assets and their settings. It would also conflict with UDP Policy DES8 which aims to secure the highest standards of design in all advertisements. Appeal G should therefore be dismissed.

Appeal H

58. The proposed advertisements would replace an existing telephone call box positioned on the edge of the pavement. At this location, to the west of Palmer Street, Petty France is straight, narrow and tree-lined which gives the area a relatively calm and low-key ambience. This section of the street is bookended by public houses with the intervening properties on the south side of the road having simple plate glass frontages. The pale stone elevations of the rear of buildings associated with the Wellington Barracks presents a strong and simple feature on the north side of the road and marks the southern boundary of the Birdcage Walk Conservation Area (BWCA).
59. There is very little street furniture in this part of Petty France with the exception of lamp standards, bollards, the existing call box and limited road signage. Digital advertising is absent in this area and any illumination associated with the existing properties is discreet and subtle.
60. Consequently, the area has a distinct pared-back character and, in providing illuminated advertising images at right angles to the flow of the street, I find that the proposal would introduce a level of contemporary visual activity which would be at odds with the character of the street and harmful to it. In doing so, it would adversely affect the setting of the BWCA.
61. I therefore conclude the proposed advertisements would be harmful to the amenity of the area including the setting of the BWCA. I have taken into account WCP Policy S25 which seeks to conserve designated heritage assets and their settings, with which the proposal would be in conflict. It would also conflict with UDP Policy DES8 which aims to secure the highest standards of design in all advertisements. Appeal H should therefore be dismissed.

Other Matters

62. The appellant has brought my attention a number of previous appeal decisions elsewhere in Westminster². Together with a decision of the Council (Ref 16/03494/ADV – 10 Westbourne Grove), these purport to demonstrate that such installations can be positively beneficial to designated heritage assets and would be less harmful than other illuminated advertisements permitted elsewhere in Westminster. Whilst I have had regard to those decisions, I am

² In so far as they are relevant to proposals for express advertisement consent these are:
APP/X5990/Z/17/3156856 -IFO Whitleys
APP/X5990/Z/17/3082012- Outside 6-10 Great Portland Street
APP/X5990/Z/17/3182308 – Site outside 102 Brompton Road
APP/X5990/Z/17/3182306 – Outside National Audit Office, 157-197 Buckingham Palace Road

not familiar with those cases and have limited information on their circumstances. I cannot therefore be certain that they represent comparable examples to the appeals before me. I have determined each of the appeals before me on their individual merits.

63. The Council questions, in relation to all the appeals, the need for such advertisements. However, as noted above, that is not a matter relevant to the determination of applications for express advertisement consent. That consideration is therefore not determinative to my decisions.

Conditions

64. In addition to the five standard conditions set out in the Regulations, the Council suggested a condition restricting the advertisements to static images with a transition rate of not less than 12 seconds. The appellant suggested the minimum period between each image should be 10 seconds, with a further restriction on transitional effects such as swiping. I have no reason to disagree with the appellant's suggestion.
65. Whilst not suggested by the Council, the appellant recommended conditions limiting the maximum illuminance after dark. I agree such a condition is necessary and reasonable. However, a condition restricting content which would resemble traffic signs has not been shown to be necessary at this location.

Conclusions

66. For the reasons given: Appeals A, B, C and E should succeed, and Appeals D, F, G and H should be dismissed.

Ian Bowen

INSPECTOR

Schedule of Conditions

(Appeals A, B, C and E)

- 1) The advertisements displayed shall be a series of static images only, which individually feature no moving elements, dynamic displays or motion pictures. The speed of change between one static image and the next shall be no quicker than 10 seconds and the complete screen shall change with no visual effects.
- 2) The intensity of the illumination of the two digital display screens shall not exceed 600 candelas per square metre (CD/m²) between dusk and dawn in line with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's Professional Lighting Guide 05: The Brightness of Illuminated Advertisements'.