

Appeal Decision

Site visit made on 17 November 2020

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2020

Appeal Ref: APP/P4605/H/20/3254328
177 New Town Row, Birmingham B6 4QZ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against conditions imposed when granting express consent.
 - The appeal is made by Global against the decision of Birmingham City Council.
 - The advertisement consent Ref 2020/02018/PA is dated 27 April 2020.
 - The condition in dispute is No 12 which states that: The advertisement consent hereby permitted requires the submission of details, supporting calculations and compliance with Institution of Lighting Engineer guidance to be agreed in writing by the Local Planning Authority prior to installation of the advertisement hoardings.
 - The reasons given for the conditions are: In order to secure the satisfactory development of the application site in accordance with Policies PG3 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
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Decision

1. The appeal is allowed and the advertisement consent, Ref 2020/02018/PA for the display of 2 no. internally illuminated 48-sheet digital advertisement hoarding, at 177 New Town Row, Birmingham B6 4QZ, granted on 27 April 2020, is varied by deleting Condition No 12.

Main Issue

2. The main issue is whether the condition is necessary or reasonable in the interests of amenity or public safety.

Reasons

3. The National Planning Practice Guidance states that if a local planning authority decides to impose conditions that are additional to the standard conditions, these must be supported by specific and relevant planning reasons.
4. The Council points to responses of its Public Lighting Team, when consulted on similar proposals, requesting details and supporting calculations prior to determining the application showing compliance with the guidance of the Institute of Lighting Engineers (since 2010 the Institute of Lighting Professionals (ILP))¹. This is reiterated by the Transport department in its consultation response.
5. These comments are generalised in nature and not specifically related to the advertisements which are the subject of the consent. The requirement for

¹ *The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements (2015)'*

further information, on my reading of the comments, relates to ensuring the brightness of the displays will not be greater than set out in the ILP guidance. However, the brightness of the advertisements is already restricted to 300 candelas per square metre (cd/sqm) under Condition No 7, which also sets out requirements for dimmer controls to automatically adjust brightness levels. 300 cd/sqm equates to the night time luminance limit for Zone E4 of the ILP guidance, which is urban areas. The site clearly lies within an urban area, being close to the centre of Birmingham and aside a major thoroughfare.

6. Therefore, the safeguards sought by the Council under the disputed condition are already effectively addressed by the restrictions of Condition No 7. It would serve no purpose for the appellant to submit details of compliance with the ILP guidance under Condition No 12 when compliance with it is required anyway under Condition No 7 without the need to submit further information. Nor would it be reasonable or necessary for the Council to require an application, potentially causing delay to the appellant, to assess what is clear, standard guidance used widely across the industry. Moreover, it would still be open to the Council to seek such information to verify compliance in the event any breach of Condition No 7 was suspected.
7. The appellant suggests an alternative condition requiring compliance with the ILP guidance without further submissions to the Council. However, in light of my findings, I am not persuaded that an alternative condition is required. For the reasons set out, I find Condition No 12 is not necessary to safeguard the amenity of the area or public safety, and should be removed.

Conclusion

8. The appeal is therefore allowed and the advertisement consent is varied as set out in the formal decision above.

K. Savage

INSPECTOR