

Appeal Decision

Site visit made on 27 October 2020

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 05 January 2021

Appeal Reference: APP/A5270/H/20/3253106

Land at 216 Western Road, Southall UB2 5JW

- 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 Clear Channel UK against the decision of Ealing Council.
 - The application (reference 195173ADV, dated 27 November 2019) was approved on 3 April 2020 and consent to display advertisements was granted, subject to conditions.
 - The advertisement permitted is described in the application as "upgrade of existing 48 sheet advert to support digital poster".
 - The Conditions in dispute and the Reasons that were given for them are set out in a Schedule to this Decision.
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Decision

1. The appeal is allowed and the advertisement consent (reference 195173ADV, dated 27 November 2019), at 216 Western Road, Southall UB2 5JW, granted on 3 April 2020 by Ealing Council, is varied by deleting conditions 1 and 10 of the Second Schedule and substituting for them the following conditions:

1. At no time shall the Luminance level of the advertisement exceed the relevant thresholds contained within the Institute of Lighting Professionals (ILP) guidance document "PLG05 - The Brightness of Illuminated Advertisements 2015" or the ILP "Guidance notes for the reduction of obtrusive light" (Guidance Note 01/20) or any subsequent amendment to or replacement of this guidance".

10. The display shall be switched off each day, between the hours of midnight and 0500 on the following morning.

Procedural point

2. The Conditions in dispute and the Reasons that were given for them are set out in a Schedule to this Decision, for ease of reference and legibility.

Main issue

3. In relation to this advertisement consent appeal, the legislation makes it clear that the powers conferred by the Regulations may be exercised only in the interests of amenity and public safety; the Development Plan may be a

material consideration but cannot be determinative. Thus, the main issues to be determined in the appeal are the effect of the proposed advertisement on amenity and public safety.

Reasons

4. Western Road is a busy through route in a densely developed part of London. In the vicinity of the appeal site, the street frontages are closely built up, with a mix of uses, including residential properties.
5. At the corner of Western Road and Derley Road there is a row of small shops, with a frontage to Western Road but set back from the highway to form a forecourt area. The side elevation of number 216 Western Road, facing along the main road (at right angle to it), dominates the forecourt area and is used for advertising purposes, for the display of a large poster advertisement.
6. Advertisement consent has been granted, subject to conditions, for the conversion of the advertisement display from a paper format to a digital format. The conditions that were imposed by the Council are contained in two schedules that are attached to the consent. The first schedule lists conditions imposed by the Advertisement Regulations, while the second lists additional conditions imposed by the Council. This appeal has been submitted against two of the conditions in the second schedule: conditions 1 and 10.
7. Conditions 1 and 10 were imposed to protect neighbours' amenity and public safety and they relate to the brightness of the new advertisement.
8. One of the aims of the 'National Planning Policy Framework' (as amended in February 2019) is "achieving well designed places" in the broadest sense (notably at Section 12). It points out the undesirable impact of advertisements that are "poorly designed and sited" (at paragraph 132), while recognising that the control regime ought not to be unduly onerous.
9. The aim of protecting residential amenity is also expressed in Development Plan Policies in Ealing's 'Development Management Development Plan Document' (notably at Policy 7A) and in 'The London Plan'.
10. The need to protect residents' amenity and to safeguard passers-by from danger is evidently of overriding importance. In this appeal, however the dispute over certain of the conditions that have been imposed arises, essentially, from a difference over the application of technical guidance and I have been referred to two current publications of the Institution of Lighting Professionals. These are "PLG05 - The Brightness of Illuminated Advertisements 2015" (dated "copyright 2014") and "Guidance notes for the reduction of obtrusive light" (Guidance Note 01/20). The Advertisement Consent itself refers to an earlier (and now superseded) version of the former, although the disputed conditions do lack clarity, in any case.
11. I accept that the latest versions of the relevant guidance notes published by the Institution of Lighting Professionals ought to be referred to in condition 1 and that it could have been expressed much more concisely. In addition, there is some ambiguity in the conditions in relation to the times at which the advertisement must be switched off, and I also accept that, in addition to

controls over brightness, the advertisement must be switched off completely between the hours of midnight and 0500 on the following morning.

12. Hence, I have adopted the proposed conditions submitted by the appellant, with modifications made for the sake of clarity.
13. In this way, I believe that residents' amenity (and safety) would be protected appropriately, bearing in mind the built-up character of the surroundings in an urban environment, alongside a main road.
14. In short, I am persuaded that the scheme before me can properly be permitted subject to the imposition of amended conditions, and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

Roger C Shrimplin

INSPECTOR

SCHEDULE OF DISPUTED CONDITIONS

1. Illuminated signs etc. Standard for brightness of illuminated signs and advertisements:

We recommend that the proposed development satisfies the Institution of Lighting Professionals Technical Report No 5, Brightness of Illuminated Advertisements. The standards are:

o For externally illuminated signs the ratio of maximum illuminance to minimum illuminance shall not exceed 10:1 for any one colour for advertisements with an illuminated area in excess of 1.5m² and 6:1 for an area not exceeding 1.5m².

o The maximum luminance (cd/m²) shall not exceed the following values:

Illuminated Area (m²)

Lit Zone

Unlit Zone

up to 0.49

2000

1000

0.5 - 1.99

1600

800

2.0 - 4.99

1200

600

5.0 - 10.0

1000

600

over 10

800

400

The Local Planning Authority recommends that the Institution of Lighting Professionals Guidance Notes for The Reduction of Light Pollution, PLG05 Brightness of illuminated advertisements 3rd edition (ILP, 2015), be met regarding the following:

Reducing glare by:

o Correctly aiming the luminaires

o Using luminaires with double asymmetric beams designed so that the front glazing is kept at or near parallel to the surface being lit

o Ensuring that the main beam angle of all lights, directed towards a potential observer is kept below 70 degrees.

Ensure that the lights/glare will not fall on the windows/facade of any sensitive receptor nearby, from 22:00 to dawn, preferably by installation of an automatic time control switch/angling or provision of barriers.

Reason: To ensure that the amenity of occupiers of surrounding premises is not adversely affected by artificial lighting, in accordance with policy 7A of the Ealing Development Management DPD (2013).

- 10 Each of the advertisement screens hereby approved shall be fitted with the specified light sensors which shall control the brightness at all times. During the daytime period (between local sunrise and sunset) the brightness of the screens shall be controlled to be no more than 3500 Nitts/sqm. During the night time period (sunset and sunrise) the brightness shall be controlled to be no more than 350 Nitts/sqm.

Reason: To ensure that the amenity and public safety of occupiers of surrounding premises is not adversely affected by changing light patterns or flashing/changing lights, in accordance with policy 7A of the Ealing Development Management DPD (2013), policies 6.1 and 6.3 of the London Plan (2016) and the National Planning Policy Framework (2012).