



Appeal Decision

Site visit made on 26 January 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/F5540/H/20/3260054

11 Rochester Parade, High Street, Feltham TW13 4HG

- 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 the Council of the London Borough of Hounslow.
 - The application Ref 00609/F11/AD7, dated 17 June 2020 was approved on 7 September 2020 and consent was granted subject to conditions. The conditions in dispute are Nos 8 and 10 which state that:
 - 8. *"The advertisements displayed on each panel shall not change more frequently than once in a 24 hour period, and this change shall be at a time between 0:00 hours and 06:00 hours"*.
 - 10. *"The advertisement display shall be statically illuminated and the level of luminance shall not exceed 300cdm² between dusk and 23:00 hours and 150cdm² between 23:00 hours and dawn"*.
 - The reasons given for the conditions are:
 - 8. *"To control the display in the interests of public safety in accordance with the objectives of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007"*.
 - 10. *"To ensure that the advertisement does not harm the character and appearance of the area"*.
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Decision

1. The appeal is dismissed insofar as it relates to the variation of Condition 8. The appeal is allowed insofar as it relates to the variation of Condition 10 and the advertisement consent Ref 00609/F11/AD7 for installation of a replacement internally illuminated 48 sheet freestanding digital advert on the side of the building at 11 Rochester Parade, High Street, Feltham TW13 4HG granted on 7 September 2020 by the Council of the London Borough of Hounslow is varied by deleting Condition 10 and substituting it with the following condition:
 - 10) The advertisement display shall be statically illuminated and the level of luminance shall not exceed 300 candela/sqm between dusk and 23:00 hours and 200 candela/sqm between 23:00 hours and dawn.

Background and Main Issues

2. The appeal follows the grant of Express Advertisement Consent for the installation of a replacement internally illuminated 48 sheet freestanding digital advertisement on the side of the building at 11 Rochester Parade. The appeal scheme seeks the variation of Condition 8 to allow for advertisements to be changed not more frequently than once every 10 seconds, and the variation of

Condition 10 so the level of luminance shall not exceed 200 candela/sqm between 23:00 hours and dawn as opposed to 150 candela/sqm as stated in the condition. I have determined the appeal on this basis.

3. Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to advertisements. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ('the Regulations') makes it clear that advertisements are subject to control only in the interests of public safety and amenity. Accordingly, the main issues in this appeal are whether the variation of Conditions 8 and 10 would be acceptable, having regard to public safety and the amenity of the area.

Reasons

Condition 8

4. The Planning Practice Guidance emphasises that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. For example, at junctions, pedestrian crossings or other places where local conditions present traffic hazards. It highlights the main types of advertisement which may cause danger to road users. This includes those, which, because of their size or siting, would obstruct or confuse a road user's view, or reduce the clarity or effectiveness of a traffic sign or signal.
5. The parties have also drawn my attention to guidance published by Transport for London¹, which states that locations with increased driver cognitive demand should be subject to a detailed assessment. Amongst other things, the guidance states that the minimum message display duration should ensure that the majority of approaching drivers do not see more than one or two messages. This is to reduce the risk of driver's attention being focused on the digital display for long periods in anticipation of the next image.
6. The appeal site is located in an area that consists of a mix of commercial and residential uses. It would be adjacent to a busy traffic-signal controlled road junction, including pedestrian crossings, where the A244 meets Rose Gardens and Poplar Way. Given the various vehicular manoeuvres at this busy road junction and the presence of pedestrian crossings, this is a location where a high level of driver cognitive demand is required.
7. The proposed advertisement would be positioned on the side gable of 11 Rochester Parade and orientated towards traffic approaching from the north-east on the A244. The approach on the A244 leading to the road junction is straight and level, and so drivers would see the advertisement well in advance of arriving at the junction. Having regard to the time taken for drivers to approach the road junction and queue at the traffic signals during a sequence, drivers are likely to see a lot of image changes on the advertisement. This would be distracting to drivers at a busy road junction where a high level of concentration is required. Such a distraction could result in road safety issues such as vehicles colliding.
8. Furthermore, whilst the proposed advertisement would be set back a modest distance from the road junction, it would be in the background of the right-hand traffic signal when drivers on the A244 are near to the road junction.

¹ Transport for London Guidance for Digital Roadside Advertising and Proposed Best Practice 2013

Given that the proposed advertisement would change image once every 10 seconds, there would be times when this change, albeit instantaneous and static, would occur at, or around, the same time as the change in the traffic signals. As the image and the traffic lights would be in the same view of drivers, this would have the potential to distract drivers and impede their decision making. This would raise a significant risk to all highway users, including pedestrians using the signalised crossing points at the junction.

9. I have had regard to the appellant's reference to an advertisement allowed at appeal at 776 Manchester Road, Rochdale² which included a condition to ensure that the advertisement would not change more frequently than once every 10 seconds. However, the circumstances of that case are not before me. I have determined the appeal scheme on its own merits and found that a change of image once every 10 seconds would cause unacceptable risk to public safety.
10. For the above reasons, I conclude that the proposal would be detrimental to the interests of public safety.

Condition 10

11. The proposed night-time illumination of 200 candela/sqm would accord with the guidance issued by the Institute of Lighting Professionals³, which recommends levels of no greater than 300 candela/sqm at night for advertisements in city centre/urban highway locations. The proposed level of illumination would be appropriate to its urban context and is typical for similar advertisements in urban areas. It would not cause unacceptable light pollution. Consequently, the proposal would not result in harm to the amenity of the area and the variation of Condition 10 is therefore acceptable.

Conclusion

12. For the reasons given above, the appeal is dismissed insofar as it relates to the variation of Condition 8 and allowed insofar as it relates to the variation of Condition 10.

C Osgathorp

INSPECTOR

² Appeal reference: 3254886

³ The Institute of Lighting Professionals ('The Brightness of Illuminated Advertisements' PLG05, 2015)