



Appeal Decision

Site visit made on 21 September 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2021

Appeal Ref: APP/P4605/H/21/3273364

Land at 422 Chester Road North, Sutton Coldfield, Birmingham B73 6RG

- 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 Mr Benjamin Porte of Clear Channel UK Ltd against the decision of Birmingham City Council.
 - The application Ref 2021/01386/PA is dated 18 February 2021 and was approved on 14 April 2021 subject to conditions.
 - The condition in dispute is No 4 which states that: The intensity of the luminance of the advertisements hereby granted consent shall be no greater than 600 candela per square metre during daylight hours and shall be no greater than 300 candela per square metre during evening/night time hours. The adverts shall be equipped with a dimmer control mechanism and a photo cell which shall constantly monitor ambient light conditions and adjust brightness accordingly.
 - The reasons given for the condition is: In order to safeguard the visual amenity of the area and ensure that the advertisement will not cause distraction to drivers using the adjacent highway in accordance with Policies PG3 and TP44 of the Birmingham Development Plan 2017 (BDP) and the National Planning Policy Framework.
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Decision

1. The appeal is allowed and the advertisement consent Ref 2021/01386/PA for the display of 1no. internally illuminated 48-sheet digital advertisement hoarding at Land at 422 Chester Road North, Sutton Coldfield, Birmingham B73 6RG granted on 14 April 2021 by Birmingham City Council is varied by deleting condition 4 and substituting it for the following condition:

4) The intensity of the luminance of the advertisement hereby granted consent shall be no greater than 2500 cd/m² metre during daylight hours and shall be no greater than 300 cd/m² during evening/night time hours. The adverts shall be equipped with a dimmer control mechanism and a photo cell which shall constantly monitor ambient light conditions and adjust brightness accordingly.

Procedural Matters

2. For clarity, I have taken the name of the appellant from the appeal form as it is more precise.
3. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework), which forms a material consideration in the determination of this appeal. The main parties have had an opportunity to comment on the significance of the changes, but no comments have been submitted.
4. The relevant Regulations, the Framework and Planning Practice Guidance (PPG)

all make it clear that advertisements should be subject to control only in the interests of amenity and public safety.

Main Issue

5. Therefore, the main issue is whether the disputed condition is necessary or reasonable in the interests of amenity and public safety.

Reasons

6. The site is located on land adjacent to the gable end of No 422, which comprises the end of a terrace, with commercial uses at ground floor with residential properties above. The area surrounding the site has a mixture of commercial and residential properties, with the residential properties in the immediate vicinity of the site being located on the same side of the road as the site. However, given the location of the site, the relationship between it and the neighbouring dwellings, the display would not have any direct impact on occupants of neighbouring dwellings. Additionally, given the commercial context of where the site is located, the permitted display would also have little impact on visual amenity.
7. The sign would face the forecourt of the adjacent petrol station and would only be visible to drivers approaching in one direction. Given the highway characteristics there would be clear and safe views of the display. There is no dispute between the parties that some form of restriction on the illuminance of the display is necessary and reasonable to ensure the safety of drivers approaching the site. I have seen nothing that would lead me to a different conclusion.
8. My attention is drawn to the Institute of Lighting Professionals ('The Brightness of Illuminated Advertisements' PLG05, 2015) (the ILP guide) which sets a maximum luminance level of 300 cd/m² in city/urban areas during the night and no maximum limit for periods during the day. The Council does not describe any extenuating factors or provide substantive evidence that would warrant limiting the illumination to 600 cd/m² during the daytime.
9. Although, I note reference to an appeal decision¹ within the city for a similar scheme, on the consultation received from Transportation South. However, limited details have been provided. Thus, I cannot be certain that the previous scheme is comparable to the case before me. The advice in the ILP guide is that during the daytime, sign luminance should never exceed 5000 cd/m². Nonetheless, given the size and prominence of the display, some control over luminance is warranted.
10. Thus, a condition specifying different levels during daytime and night time would be reasonable and necessary, not only to ensure clarity and enforceability, but in the interests of public safety and amenity. The appellant has clarified his position regarding luminance and confirms that 3000 cd/m² is the maximum level for the display and has stated that the average level on the brightest of days would be around 2500 cd/m².
11. For the above reasons, I am satisfied that the display as proposed by the appellant would not be unduly harmful to amenity or public safety in this

¹ APP/P4605/H/18/3212795

location. There would also be no conflict with the relevant development plan policies as set out in the original decision notice. Therefore, I conclude that the express consent should be varied by deleting condition No. 4 and substituting it for a new condition that specifies luminance levels as set out in the formal decision. All other conditions remain unaltered. I have assessed this appeal on its own individual merits and the evidence before me.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed.

W Johnson

INSPECTOR