



Appeal Decision

Site visit made on 19 December 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th January 2023

Appeal Ref: APP/Z4310/H/22/3306470

Land at Edge Lane, Liverpool, L13 1EW

- 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 against the decision of Liverpool City Council. The application Ref 22A/0460, dated 16 February 2022, was approved on 31 August 2022 and express consent was granted subject to conditions.
 - The development permitted is to display 2no. illumination 48-sheet digital poster displays.
 - The condition in dispute is No 3 which states that: The levels of the illuminance shall not exceed 600cd/m² during daylight hours or exceed 300cd/m² during twilight and night hours; as defined by official lighting up times.
 - The reason given for the condition is: To avoid glare, dazzle or distraction to passing motorists in the interests of road safety.
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Decision

1. The appeal is allowed and the advertisement consent Ref 22A/0460 to display 2no. illuminated 48-sheet digital poster displays at land at Edge Lane, Liverpool, L13 1EW granted on 31 August 2022 by Liverpool City Council is varied by deleting condition 3 and substituting it for the following condition:

3) The intensity of the luminance of the advertisements hereby granted consent shall be no greater than 2,500 cd/m² between sunrise and sunset and shall be no greater than 300 cd/m² during sunset and sunrise. 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.

Main Issue

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

Reasons

3. Express consent was granted by the Council for two digital 48-sheet displays next to Edge Lane and Liverpool Shopping Park, arranged in a v-shape. The displays would be sited behind a high brick wall, but they would be visible above it and display static images at a frequency of once every 10 seconds. No special effects or video elements are to be shown. The displays are orientated principally so that they would be visible on approach from the east and west.
4. Edge Lane is a heavily trafficked primary trunk road linking the city centre and the M62 motorway. Liverpool Shopping Park is a designated out-of-centre retail location that lies adjacent to the appeal site on the southern side of Edge Lane. It comprises of various commercial uses. To the west of the appeal site are further commercial uses and associated adverts. Notably, there are several

- large advertisements on either side of Edge Lane in the vicinity of the site.
5. The appellant does not dispute the night-time illuminance limitation in the condition. I agree based on the evidence before me and the site's location. Condition No. 7 also ensures that the adverts would be switched off between the hours of 23:00 and 05:00.
 6. The appellant applied to operate the adverts at 3,000 cd/m². Even so, the Council imposed a condition to limit luminance levels to 600 cd/m² during daytime hours to avoid glare, dazzle or distraction to passing motorists in the interests of road safety. The Council has adopted this limitation across all digital adverts across the city. The reason for this seems to be the maximum permitted recommended luminance values in table 4 of the Professional Lighting Guide PLG 05 The Brightness of Illuminated Advertisements (IHP Guidance). However, the values in that table apply to during the night, not during the day. Note 1 beneath table 4, that the luminance of digital signs during the daytime should never exceed 5,000 cd/m².
 7. The adverts would be visible a good distance away along the eastbound and westbound carriageways of Edge Lane. They would also be within a commercial area which contains several other large, illuminated adverts, some of which are digital displays, others externally illuminated. The adverts would draw people's attention to them, but a higher luminance level during the daytime would not be so keenly felt compared to night-time hours.
 8. There is no dispute that a luminance limit on the displays is necessary and reasonable during daytime hours. I agree given the size, siting and location of the adverts next to Edge Lane. The appellant submits that a 600 cd/m² limit during the daytime is not site specific and would result in the adverts not being adequately visible due to higher ambient light levels. The appellant's proposed daytime luminance level of 2,500 cd/m² would make the adverts more effective, yet they would still be well within the IHP Guidance's maximum daytime level. Having regard to this, and the site's location, I do not consider a higher luminance level would cause glare, distraction or dazzle passing motorists, cyclists or pedestrians during daytime hours in this case.
 9. The appellant's suggested condition includes provision of a dimmer control mechanism and a photocell to constantly monitor ambient light conditions and adjust brightness. These are suitable controls not currently found in the disputed condition, despite the Council's concerns about their reliability.
 10. Accordingly, I conclude that the disputed condition is necessary and reasonable in the interests of public safety, but with a higher daytime luminance level. On this basis, the adverts would not harm public safety and they would accord with Policy UD9 of the Liverpool Local Plan 2013 – 2033, which is material in this case, as it seeks advertisements that do not constitute a traffic hazard.

Conclusion

11. For the reasons given above, I conclude that the appeal should succeed. I will grant a new express consent without the disputed condition but substituting it for the version set out above.

Andrew McGlone

INSPECTOR