



Appeal Decision

Site visit made on 11 February 2023

by Gareth W Thomas BSc (Hons) MSc (Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/D1780/H/22/3297584

Land at Marsh Plant Hire Ltd, Millbrook Road West, SOUTHAMPTON, SO15 0LB

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a condition imposed when granting express consent.
 - The appeal is made by Clear Channel UK against the decision of Southampton City Council.
 - The application Ref 22/00296/ADV, dated 24 February 2022, was approved on 21 April 2022 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is for the installation of an internally illuminated free standing digital display.
 - The condition in dispute is No.2 which states that: The maximum luminance for the advertisements shall not exceed 600cd/sq.m during the day and after dusk the maximum shall be 300cd/sq.m.
 - The reasons given for the condition is: In the interests of highway safety.
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Decision

1. The appeal is allowed and the advertisement consent Ref 22/00296/ADV for Installation of an internally illuminated free standing digital display at land at Marsh Plant Hire Ltd, Southampton SO15 0LB granted on 21 April 2022 by Southampton City Council is varied by deleting condition 2 and substituting for this the following condition:

The advertisement incorporating the LED digital display panel hereby approved shall be displayed only in accordance with the following: a) No individual advertisement displayed on the LED panel shall contain any images that resemble road signs or traffic signals. b) The advertisement shall not display moving images. c) The display panel shall be fitted with a light sensor, designed to adjust the brightness to changes in ambient light level. At all times there should be no glare. d) A mechanism shall be in place to ensure that if the installation breaks down, it shall default to a blank black screen, to avoid any flashing error messages or pixilation. e) The maximum luminance for the advertisements shall not exceed 2500cd/sq.m during the day and after dusk the maximum shall be 300cd/sq.m. The advert shall be equipped with a dimmer control mechanism and a photo cell which shall constantly monitor ambient light conditions and adjust brightness accordingly. f) The sign shall display adverts for a minimum of 10 seconds. g) The merging of images displayed on the screen hereby approved, shall take place over a 1.8 second period comprising an initial fade out over 0.4 seconds to a middle grey colour which would remain static for 1 second. Followed by a 0.4 second fade in to the next image.

Preliminary Matters

2. The advertisement display is already in situ. It is a free-standing 48-sheet digital display, which would display static images at a frequency of once every ten seconds. It is sited in the parking area to a retail plumber's merchant and faces principal distributor roads. The sign was in operation during my visit, which coincided with a bright sunny day and I was able to experience the degree of illuminance and note the positioning at a busy roundabout and flyover beyond.
3. The Regulations¹ state that the control of advertisements is exercisable only in the interests of amenity and highway safety. The Council has not raised the issue of amenity and I agree with this stance.

Main Issue

4. The main issue in this appeal is whether the disputed condition is required in order to prevent highway safety issues.

Reasons

5. There is no dispute between the parties that restrictions over the illuminance of the display is necessary. This is especially pertinent during the hours of darkness when the display would be particularly noticeable both from the flyover and at this busy roundabout. At night, the glare of the display would be likely to be distracting to road users and which would lead to highway safety problems if not properly controlled. The same would not be true during the day time. The appellant claims that the recorded day time illuminance standards set by the Council would result in the display not being adequately visible.
6. The appellant draws attention to the ILP guidance² that suggests that uniformity of luminance across an advertisement display area must be kept within reasonable limits to ensure a pleasing and effective result. These two strands echo the Regulations in so far as a pleasing result relates to amenity whilst effective results relate to public safety. The ILP guidance accepts that luminance levels need to be greater during daylight hours but that displays area of greater than 10 sq.m should be illuminated to levels no greater than 300 cd/sq.m during hours of darkness and should never exceed 5000 cd/sq.m during the daytime.
7. It is noted that the local highway authority has not raised concerns relating to the proposal. The advertisement display includes provision of an ambient light sensor, to assist in regulating the brightness relative to the prevailing level of ambient light and a system that takes account of changing times for sunrise and sunset during different times of the year.
8. Whilst officers recommended that approval be granted for the advertisement, the inclusion of a condition that restricts the level of luminance does not appear to follow national guidance and accepted practice. Simply, the Council has plucked a standard out of thin air without any technical evidence to substantiate such a stance. Although this is a busy road junction, its siting within an area of commercial activity and against the backdrop of the host

¹ Town and Country Planning (Control of Advertisements) (England) Regulations 2007

² Institute of Lighting Professionals PLG05

building and protected trees would mean that the level of luminance proposed would be unlikely to cause highway safety dangers provided night-time controls are in place.

9. In so far as the Council's development plan policies are relevant to the appeal proposal, I do not consider that the daytime level of luminance would cause highway safety issues. The lack of evidence submitted by the Council in defence of its stringent condition would also mean that there would be no conflict with the National Planning Practice Guidance.

Conditions

10. I have considered the replacement conditions offered by the parties. It seems to me that the Council's suggested condition is precise and provides for greater clarity. I have though not included the final criterion, which I consider unreasonable having regard to the evidence submitted.

Conclusion

11. For the above reasons, I conclude that the appeal should be allowed and condition No2 amended as per paragraph 1 of this decision.

Gareth W Thomas

INSPECTOR

