



Appeal Decision

Site visit made on 2 May 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Appeal Ref: APP/P4605/H/22/3302946

1603 Pershore Road, Bournville, Birmingham B30 2JF

- 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 Birmingham City Council.
 - The application Ref 2022/03631/PA, dated 3 May 2022, was approved on 16 June 2022 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is the display of replacement 1no. internally illuminated freestanding digital advertisement hoarding.
 - The condition in dispute is No 5 which states:
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 reason 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 and the National Planning Policy Framework.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal relates to an advertisement consent which has been granted by the Council for an internally illuminated digital display screen. This was subject to a number of conditions, including a restriction to the brightness of the digital display.
3. There is no dispute between the main parties as to the maximum night time illumination of 300 candela per square metre (cdm^{-2}). However, the appellant seeks a variation to the daytime maximum illumination from the 600 cdm^{-2} imposed by the Council to up to 2500 cdm^{-2} . This would be electronically controlled and responsive to integrated ambient light sensor readings.
4. The Council's appeal statement confirms that its main concern and reason for imposing the limits is specifically in relation to highway safety. Accordingly, the main issue is whether or not the disputed maximum illumination condition is reasonable in the interests of public safety with particular regard to highway safety.

Reasons

5. The digital display would be elevated above a roadside wall on an inclined section of Pershore Road, close to its junction with Fordhouse Lane. The sign would be orientated to be roughly south facing. It would display changing images and be prominent to northbound traffic on a straight section of the road descending from a canal bridge to the south.
6. On the approach, Pershore Road includes a central refuge for right turning traffic. This facilitates traffic turning from Pershore Road into Fordhouse Lane and a site entrance opposite the priority junction. Additionally, a signalised pedestrian crossing exists between the proposed position of the sign and the junctions.
7. At the time of my site visit, albeit a snapshot in time, traffic on Pershore Road was significant. Multiple vehicle queueing at the junction with Fordhouse Lane was observed on several occasions over a relatively short period. A number of vehicles also turned into and out of the yard opposite which serves several commercial businesses on a large site.
8. I saw that vehicle movement through the junction was occasionally hindered by traffic entering and leaving Windsor Road, which joins close to the main junction. Furthermore, some waiting within the main carriageway was observed at the commercial site entrance due to opposing vehicle movements and outside working within the site.
9. The location is therefore one where vehicle and pedestrian traffic is approaching several potential points of conflict and manoeuvring in different directions in a short length of the carriageway. It also lies in an area of numerous other advertising displays.
10. A bright screen with changing images would have a high tendency to attract the attention of passers-by, as it is intended to do. This would include drivers in charge of motor vehicles on the north-bound carriageway, or those emerging from Fordhouse Lane.
11. Excessive distraction in the locality would have the propensity to significantly increase highway safety risks on part of the road network where the likelihood of user collisions is, in my view, already elevated. I have little doubt that a brighter display would increase that risk compared to existing unlit static displays or a more limited level of illumination. It would be a prominent and distracting feature over a greater distance in the forward view of drivers. Furthermore, any confusion with the traffic lights at the crossing could cause hesitation with attendant false anticipation effects on following drivers. This would be to the further detriment of road safety.
12. In support of the proposal the appellant draws my attention to the findings in guidance¹ provided by the Institute of Lighting Professionals in relation to the maximum recommended brightness of illuminated advertisements. However, the guidance is clear that illumination levels should be dependent on the site circumstances including the advertisement size, contrast and observers.
13. The advert would be large. It would be partly seen against the black backing of a north-facing screen immediately behind it and street trees further along

¹ Professional Lighting Guide PLG05, The Brightness of Illuminated Advertisements

Pershore Road. This would provide a high degree of contrast. Although the upper edge may be seen against a sky backdrop, there is little to demonstrate that this would cause a notable loss of image definition or legibility.

14. The appellant asserts that the 3,000 cdm⁻² daytime maximum originally sought followed testing of the display type in various conditions and locations across the UK. However, this is not supported in evidence. I acknowledge that levels could be regulated in conjunction with an ambient light sensor, however, there is little to demonstrate any proportionality to the ambient levels and therefore the extent to which it would out-compete the existing unlit advertisements.
15. On the other hand, I note the appellant's contention that the conditioned illuminance levels are applied as standard by the Council. According to the Council, this follows their own assessment of illuminance effects with particular regard to highway safety. However, there is also little to substantiate that claim. Nevertheless, against a largely consistent approach by the Council, I am not persuaded that the location is one suitable for the use of a brighter and thereby a more distracting display. In the substantial absence of detail to demonstrate that the Council's approach is unduly onerous, I find greater weight is due to the important matter of road safety.
16. I note the parties' reference to appeal decisions with conflicting outcomes elsewhere in the city. However, there is little to demonstrate that the highway circumstances in those cases are comparable to the case before me. Accordingly, I am unable to attribute meaningful weight to those decisions in the context of this appeal.
17. Taking all of the above together, I find the existing condition is reasonable in the specific circumstances of the case. Furthermore, it is relevant to the proposal, is enforceable and precise. It is necessary to meet the requirement in Policies TP44 and PG3 of the Birmingham Plan 2031 [2017] as they seek to achieve the safe use of the existing transport network and create safe environments in the interests of public safety.

Conclusion

18. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR