



Appeal Decision

Site visit made on 12 April 2023

by Ann Veevers BA(Hons) DipBCon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2023

Appeal Ref: APP/P4225/H/22/3311863

Halifax Road Service Station, Car Switch Ltd, Halifax Road, Rochdale OL16 2NT

- 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 Ben Porte, Clear Channel UK, against the decision of Rochdale Borough Council.
 - The application Ref 22/00772/ADV, dated 9 June 2022, was approved on 31 October 2022 subject to conditions.
 - The advertisement permitted is 2 internally illuminated 48 sheet digital display units following removal of 2 illuminated totem signs.
 - The condition in dispute is No 7 which states that: *During the hours of darkness, the illumination level shall not exceed 300 candelas per square metre. At all other times the illumination level shall not exceed 600 candelas per square metre.*
 - The reason given for the condition is: *In order to safeguard the amenities of the area and neighbouring residents and to safeguard the interests of road safety in accordance with policies P2, P3, T2 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.*
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Decision

1. The appeal is allowed and the advertisement consent Ref 22/00772/ADV for 2 internally illuminated 48 sheet digital display units following removal of 2 illuminated totem signs at Halifax Road Service Station, Car Switch Ltd, Rochdale OL16 2NT granted on 31 October 2022 by Rochdale Borough Council is varied by deleting condition No 7 and substituting for it the following condition:
 - 7) The maximum level of luminance of the advertisement signs hereby permitted shall not exceed the relevant thresholds contained within the Institute of Lighting Professionals guidance document 'Professional Lighting Guide 05 - The Brightness of Illuminated Advertisements' 2014, or any guidance updating or replacing it and shall not exceed 3000 candelas per square metre between sunrise and sunset and 300 candelas per square metre between sunset and sunrise.

Background and Main Issue

2. The Council granted express consent for 2 internally illuminated 48 sheet digital display advertisements at the site, subject to several conditions. Condition No 7 sets out the maximum illumination levels of the advertisements during the hours of darkness and at other times of the day. This condition was imposed to safeguard the amenity of the area and neighbouring residents and in the interests of road safety.

3. There is no dispute between the parties regarding that part of the condition that limits the maximum illumination level of 300 candelas per square metre (cd/sqm) during the hours of darkness. However, the appellant considers that the maximum illumination level of 600 cd/sqm at all other times is unreasonable having regard to the advice contained in the Institute of Lighting Professionals guidance document 'Professional Lighting Guide 05 - The Brightness of Illuminated Advertisements' 2014 (PLG05).
4. The main issue is whether the disputed condition is reasonable and necessary in the interests of amenity and public safety.

Reasons

Amenity

5. The appeal site comprises the forecourt of a car dealership business that fronts a busy main road close to a roundabout. The surrounding area has a mixed character which includes residential, community and commercial properties. There are a variety of street lighting poles, road traffic signs and a bus stop close to the site.
6. The two display units would be sited at each corner of the forecourt, angled towards each other and the road, occupying a prominent position. The application form indicates that the height from ground level to the base of each display would be 2.5m.
7. Condition No 7 of express consent 22/00772/ADV restricts the illumination levels of the display units. It is not one of the standard conditions to which all advertisements are subject under the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations). Planning Practice Guidance (PPG) relating to advertisements states that if a local planning authority decides to impose conditions that are additional to the standard conditions, these must be supported by specific and relevant planning reasons.
8. One of the Council's reasons for imposing the condition is to safeguard the amenities of the area and neighbouring residents. However, no substantive evidence has been submitted by the Council to explain why the illumination level was restricted to 600 cd/sqm, particularly as the application sought consent for illumination levels compliant with the recommendations of the PLG05.
9. I have been provided with a copy of PLG05 which provides guidance limits on luminance levels of illuminated signs based upon, amongst other things, their size, location and frequency of change for digital signage. PLG05 clearly states in Section 8, Note 1 that during the daytime, sign luminance should never exceed 5,000 cd/sqm. A maximum daytime luminance level of 3,000 cd/sqm is sought, which is less than that recommended in PLG05.
10. Although this luminance level would be significantly higher than the night-time limit, I recognise that ambient luminance during daytime hours is typically higher than during hours of darkness. Therefore, a very low level of luminance during the daytime would be barely discernible.

11. The PPG¹ sets out that factors relevant to amenity include the general characteristics of the locality and in practice, 'amenity' is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement. The proposed advertisement displays would be sizeable, set well above ground level and close to the road. As such, they would be seen for a significant distance from all directions, including from the adjacent children's day nursery and residential properties opposite the site on Ditton Mead Close and Halifax Road, along with some terraced residential properties at the rear on Howarth Cross Street.
12. At my site visit, albeit a snapshot in time, other than road traffic signs, I saw no other illuminated advertisements close to the appeal site. Nevertheless, Halifax Road is wide, with 4 traffic lanes and a central grass strip. Due to the distance and the angled positions of the advertisements displays, their scale would be limited when viewed from properties opposite and to the rear of the site. Furthermore, other conditions have been imposed on 22/00772/ADV to safeguard the amenity of the area, such as complete switch off of illumination during the late night and early morning.
13. The Council have not disputed the recommendations in PLG05 or provided any evidence to the contrary. The proposed illumination levels would draw people's attention to the advertisement displays. However, in the context of the busy urban road, and on the evidence presented to me, I see no reason why a maximum luminance level of 3000 cd/sqm, which is well within the PLG05 guidance, would harm amenity outside the hours of darkness.

Public Safety

14. The PPG² states that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take care are more likely to affect public safety. The Council's other reason for imposing Condition No 7 was in the interests of road safety. However, no specific road safety reason for the limitation of illumination levels to 600 cd/sqm during hours of light has been provided. The Council's officer report confirms that the Highway Authority raised no objection to the proposal and neither did they request any specific condition. While the advertisement displays would be prominent close to a roundabout, the road is wide and straight at the location of the appeal site with good visibility.
15. Consequently, while both parties agree some form of restriction on the luminance of the advertisements is necessary, and as the proposed maximum illumination level of 3000 cd/sqm would be well within the PLG05 recommended levels, I am satisfied it would not harm public safety at times other than hours of darkness.
16. Accordingly, I conclude that the disputed condition is necessary and reasonable in the interests of amenity and public safety, but with a higher maximum luminance level outside the hours of darkness.
17. Regulation 3(1) of the Regulations states the power to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. I have had regard to Policies P2, P3, T2 and

¹ Paragraph: 079 Reference ID: 18b-079-20140306

² Paragraph: 067 Reference ID: 18b-067-20140306

DM1 of the Rochdale Core Strategy 2016 which collectively seek to ensure proposals do not harm the character or safety of the area so far as they are material to this decision. I conclude that the proposal would not harm amenity or public safety and would not conflict with these Policies or the National Planning Policy Framework.

Other Matters

18. Condition No 7 refers to a restriction on illumination levels 'during the hours of darkness' and 'at all other times'. The appellant seeks to vary the wording of the timings to 'between sunrise and sunset' (3000 cd/sqm) and 'between sunset and sunrise' (300 cd/sqm). I consider the proposed wording meets the tests set out in the Framework and the 'Use of Conditions' section of the PPG.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed, and advertisement consent should be varied as set out in the formal decision.

Ann Veevers

INSPECTOR