



Appeal Decision

Site visit made on 15 August 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2023

Appeal Ref: APP/P4605/Z/23/3315530

Land at 176 Brighton Road, Birmingham B12 8QN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Clear Channel UK against the decision of Birmingham City Council.
 - The application Ref 2022/08688/PA, dated 21 November 2022, was refused by notice dated 17 January 2023.
 - The advertisement proposed is described as single illuminated 48-sheet digital poster display.
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Decision

1. The appeal is allowed and express consent is granted for single illuminated 48-sheet digital poster display on land at 176 Brighton Road, Birmingham B12 8QN as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the additional conditions set out below:
 - 1) The intensity of the luminance of the advertisement hereby approved shall be no greater than 2500 cd/sqm between sunrise and sunset and shall be no greater than 300 cd/sqm between sunset and sunrise. The advertisement shall be equipped with a dimmer control mechanism and a photo-cell which shall constantly monitor ambient light conditions and adjust brightness accordingly.
 - 2) Images displayed on the approved advertisement shall not change more frequently than once every 10 seconds. The interval between successive displays shall be instantaneous (0.1 seconds or less).
 - 3) Advertisements shall be a series of static images, which shall not feature any flashing, moving or apparently moving images of any kind.
 - 4) The advertisement shall be switched off between the hours of 00.00 and 05.00.

Preliminary Matters

2. The Regulations, the National Planning Policy Framework (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, taking account of cumulative impacts. The Council identifies Policy PG3 of the Birmingham Development Plan 2017, Policies DM7 and DM14 of the Development Management in Birmingham DPD 2021, City Note SS-6 of the

Birmingham Design Guide 2022 and the Framework in their reason for refusal. I have taken the policies into account as material considerations in so far as they are relevant to amenity and public safety. The Council's reason for refusal relates specifically to matters of public safety.

3. The Council has raised no concerns in relation to the appeal proposals potential impact on visual amenity. On the basis of the evidence before me, I have come to the same conclusion.

Main Issue

4. The main issue is the effect of the proposed advert on public safety.

Reasons

Public Safety

5. The appeal site adjoins the forecourt of a petrol filling station and car wash and is adjacent to a vehicular access leading to the rear of the site. The immediate surrounding area includes a mix of commercial uses and residential dwellings.
6. In the immediate vicinity of the site Brighton Road exhibits a commercial character. The illuminated sign would be orientated to face on-coming drivers travelling westwards along Brighton Road and would be visible to those entering and exiting the petrol filling station.
7. There is no dispute between the parties that some form of restriction on the illuminance of the display is necessary and reasonable in the interests of public safety. I have seen nothing that would lead me to a different conclusion.
8. My attention is drawn to the Institute of Lighting Professionals¹ (the ILP guide) which sets a maximum luminance level of 300 cd/m² in city/urban areas during the hours of darkness and no maximum limit for periods during the day. The advice in the ILP guide is that during the daytime, sign luminance should never exceed 5000 cd/m².
9. The appellant has clarified their position regarding luminance stating that adverts would not being adequately visible due to higher ambient light levels and confirms that 3000 cd/m² is the maximum level for the display, stating that the average level on the brightest of days would be around 2500 cd/m². Although I note the Council reference to an appeal decision within the city for a similar scheme, limited details have been provided. I therefore cannot be certain that the scheme is comparable to the appeal before me. 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.
10. 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 ILP Guidance's maximum daytime level. Having regard to this, and the location of the appeal site, I do not consider this luminance level would cause glare, distraction or dazzle passing motorists, cyclists or pedestrians during daytime hours in this case.

¹ The Brightness of Illuminated Advertisements' PLG05, 2015

11. For the above reasons, I am satisfied that the proposed display would not be materially harmful to public safety. There would be no conflict with the relevant development plan policies.

Conditions

12. In order to ensure the proposal remains acceptable in terms of highway safety I consider it necessary to attach a condition in relation to the intensity of illumination and image frequency. In addition to the standard conditions as applied by the Regulations the appellant has suggested conditions in relation to hours of operation, the frequency of images and the levels of illumination. In the interests of public safety and amenity I consider these are necessary.

Conclusion

13. For the reasons given above, the appeal should be allowed.

R Gee

INSPECTOR