



Appeal Decision

Site visit made on 10 October 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Appeal Ref: APP/Z4310/H/23/3319657

Advertising Right 2392, 11-13 Stanley Road, Everton, Liverpool L5 2PX

- 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 (Clear Channel UK) against the decision of Liverpool City Council.
 - The application Ref 23A/0155, dated 24 January 2023, was approved on 28 March 2023 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is to display 1 x wall mounted LED Digital display.
 - The conditions in dispute are Nos 2 and 3 which state that:
*"The development hereby approved shall be carried out in accordance with the following drawings and documents: (i) Drawing Numbers
Location Plan, received 29/11/22
Block Plan, 010-0302-0400
Proposed elevations and section, 209471-1 rev 1
Proposed elevations, PY4176/001B
(ii) Supporting Documents
Waferlite bus shelter spec, received 29/11/22
Waferlite 75 technical spec, received 29/11/22
Illumination details, received 29/11/22
Photographs and photomontages"* and
"The levels of the illuminance shall not exceed 600 cd/m² during daylight hours or exceed 300 cd/m² during twilight and night hours, as defined by official lighting up times."
 - The reasons given for the conditions are: *"For the avoidance of doubt."* and *"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 23A/0155 to display 1 x wall mounted LED Digital display at Advertising Right 2392, 11-13 Stanley Road, Everton, Liverpool L5 2PX is varied by deleting conditions 2 and 3 and substituting them for the following conditions:
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PY4432/001, PY4432/002, PY4432/004 and PY4432/005.
 - 3) The levels of illuminance of the advertisement hereby granted shall not exceed 2500cd/m² between sunrise and sunset and shall be no greater than 300cd/m² during sunset and sunrise. The advertisement shall be equipped with a dimmer control mechanism and a photo cell which shall monitor ambient light conditions and adjust the brightness of the advertisement accordingly.

Application for costs

2. An application for costs was made by Mr Benjamin Porte of Clear Channel UK against Liverpool City Council. The cost application is the subject of a separate decision.

Background and Main Issue

3. An advertisement matching the plans has been installed at the appeal site. I will therefore refer to it as the advertisement throughout my decision.
4. Part 1, Regulation 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 states "Unless it appears to the local planning authority to be required in the interests of amenity or public safety, an express consent for the display of advertisements shall not contain any limitation or restriction relating to the subject matter, content or design of what is to be displayed."
5. The local highway authority has indicated in their consultation response dated 1 March 2023 that the proposals do not raise highway safety concerns, as they do not impact highway users and they are unlikely to cause a level of disruption that would warrant a highway objection. Within this response the local highway authority proposed a number of conditions including a restriction on illuminance in order to avoid glare, dazzle or distraction to passing motorists in the interests of road safety.
6. The case officer report sets out that the proposal is acceptable from a visual and residential amenity perspective. However, the report indicates it would be necessary to restrict the illumination levels, regardless of the acceptability of the proposal.
7. Taking the above background into account, the main issue is whether conditions nos. 2 and 3 are reasonable and necessary in the interest of preserving amenity and public safety.

Reasons

8. Condition no. 3 sets out illuminance limits and states "... as defined by official lighting up times." The guidance used to identify 'official lighting up times' referred to within the condition, has not been specified within the evidence.
9. The appellant has provided a copy of the Institution of Lighting Professionals, Professional Lighting Guide 05, The Brightness of Illuminated Advertisements (PLG05) and has indicated that it is considered canon by local planning authorities. The council has not disputed this. Table 4 of the PLG05 sets out the maximum value of luminance anywhere on the surface of an advertisement at any time during the night. The table provides different recommendations depending on the characteristics of the area. Given the edge of city centre location, close to an arterial route the appeal site is in Zone E4 which is defined as city centres with high levels of night-time activity. Table 4 indicates that for advertisements over 10m² the maximum recommended luminance is 300cd/m² during then night. Note 1 under the table states that during the daytime sign luminance should never exceed 5,000cd/m².
10. During my site visit I observed that the advertisement was located on the side elevation of a property at first floor level a significant distance from the road.

The advertisement is not prominent in views from the highway toward road signs or traffic lights and therefore is unlikely to cause a distraction. The appellant contends that the advertisement would be less prominent in daylight hours due to the ambient levels of light. The appellant's proposed luminance level of 2500cd/m² between sunrise and sunset is significantly below the maximum recommended in PLG05. Having regard to this and the site's location, I do not consider a higher luminance level would cause glare, dazzle or distraction for passing motorists, cyclists or pedestrians between sunrise and sunset. Other than highway safety, no concerns have been raised in relation to public safety.

11. During my site visit I observed that directly opposite the advertisement was a single storey building which appeared to be in use as a community building. Beyond that was a block of apartments. The illuminated advertisement is above the window level of the community building and would therefore not have a materially harmful effect on the amenity of users of the building. Given the distance between the advertisement and the apartment windows, a restriction on luminance would be required but not as restrictive as currently specified in condition 3. Furthermore, the council's assessment within the case officer report only mentions the need to restrict luminance during the night-time and does not identify the need to impose restrictions during the day to preserve visual and residential amenity.
12. For these reasons a condition restricting illuminance levels is necessary and reasonable, but the daylight limit detailed in the condition is not reasonable. Therefore, condition 3 should be amended accordingly.
13. Neither party disputes that the drawings and documents listed in condition 2 do not relate to the appeal proposal. It would therefore be unreasonable to retain the wording of the condition which refers to unrelated drawings and documents. A condition listing approved plans is necessary, in the interest of certainty and to ensure that the advertisement installed matches what was applied for. I will therefore amend the wording of the condition to list plans which are relevant to the appeal proposal.

Conclusion

14. I conclude that conditions nos. 2 and 3 are reasonable and necessary in the interest of preserving amenity and public safety. Notwithstanding, the wording of these conditions is unreasonable as they referred to plans which did not form part of the application and applied too strict a limit on the illuminance of the advertisement between sunrise and sunset. I will therefore amend the wording of the disputed conditions accordingly.

J Hobbs

INSPECTOR