



Appeal Decision

Site visit made on 2 December 2024

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2025

Appeal Ref: APP/G4620/H/24/3348021

Land at Springfield Industrial Estate, Oldbury, Birmingham B69 4HH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against conditions imposed when granting express consent.
 - The appeal is made by Wildstone Estates Limited against the decision of Sandwell Metropolitan Borough Council.
 - The application Ref DC/24/6897A was approved on 20 May 2024 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is proposed free-standing digital advertising screens.
 - The conditions in dispute are Nos 9 and 10 which state that:
 - 9. Notwithstanding the details provided, the intensity of the illumination of the screens permitted shall not exceed 300cd/m² throughout the period of this consent.
 - 10. In accordance with guidance set out by the Institute of Lighting Professionals Lighting Guide the rate of content change of advertisements shall be limited to no more than once every fifteen seconds.
 - The reason given for the conditions is in order to ensure the safety of users on the M5 motorway and enable it to continue to be an effective part of the Strategic Road Network in accordance with Section 10 (2) of the Highways Act 1980 and Circular 01/2022: The Strategic Road Network and The Delivery of Sustainable Development.
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Decision

1. The appeal is allowed and express consent Ref DC/24/6897A for proposed free-standing digital advertising screens on land at Springfield Industrial Estate, Oldbury, Birmingham B69 4HH granted on 20 May 2024 by Sandwell Metropolitan Borough Council, is varied by deleting conditions 9 and 10 and substituting them for the following conditions:
 - 9) Notwithstanding the details provided, the intensity of the illumination of the screens permitted shall not exceed 300cd/m² in the hours of darkness and the maximum daytime luminance values set out in table 10.5 of the Institution of Lighting Professionals - Professional Lighting Guide (PLG 05/23) 'The Brightness of Illuminated Advertisements including Digital Displays' (2023) in cd/m².
 - 10) The rate of content change of advertisements shall be limited to no more than once every ten seconds.

Main Issue

2. Advertisement consent was granted, subject to conditions, for free-standing digital advertising screens. This appeal has been submitted requesting to vary two conditions imposed on the consent. Condition 9 restricts the luminance of the screen to no more than 300 candela per square metre (cd/m²). Condition

10 restricts the rate of content change of the advertisements on the screens to no more than once every fifteen seconds. The reasons for the conditions specified in the Council's decision is to ensure the safety of users on the M5 motorway and enable it to continue to be an effective part of the Strategic Road Network in accordance with Section 10 (2) of the Highways Act 1980 (Highways Act) and Circular 01/2022: The Strategic Road Network and The Delivery of Sustainable Development (Circular 01/2022).

3. The main issue is whether the disputed conditions are reasonable and necessary in the interests of public safety.

Reasons

4. The appeal site is located in a mixed-use commercial area on land adjacent to a section of the M5 flyover bridge. The proposal is to erect two digital advertisement screens set on a 17-metre-high tower, visible to users of the M5 motorway.
5. Whilst National Highways (NH) confirm that they cannot demonstrate that a road safety hazard would be a direct result of the proposal, they recommended the imposition of Conditions 9 and 10 to limit the luminance of the advertisement and the frequency of change of the images. These conditions are necessary to ensure the proposed advertisement does not result in a road safety hazard resulting from driver distraction for users of the M5 Motorway.
6. However, a restricted luminance of 300 cd/m² in daytime hours is more restrictive than the recommended maximum daytime luminance values set out in the relevant Professional Lighting Guide (PLG05)¹.
7. Table 10.4 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 town and city centres and other commercial areas with high levels of night-time activity. Table 10.4 indicates that for signs of all surface areas in this zone, the maximum recommended luminance is 300cd/m² during the night.
8. The appellant contends that the advertisement would be less prominent in daylight hours due to the ambient levels of light and the luminance therefore often needs to be greater than 300cd/m² during the hours of daylight. Table 10.5 of PLG05 supports this view and states that during the daytime, sign luminance should not exceed 5,000cd/m² in direct sunlight or less, dependent on daylight ambient illuminance. Even though reference has been made to the Highways Act and Circular 01/2022 in the reasons for the disputed conditions, neither the Council or NH have explained the reasons for restricting the luminance to 300 cd/m² at all times. No information has been provided to explain why it may be appropriate to disregard the guidance in the PLG05 in this instance.
9. In relation to the image rate of change, the appellant suggests that the frequency of static images changes should be increased to every 10 seconds instead of every 15 seconds in accordance with the PLG05. Even though the

¹ Professional Lighting Guide PLG 05/23, The brightness of illuminated advertisements including digital displays by the Institution of Lighting Professionals (2023)

wording of Condition 10 also refers to guidance set out by the Institute of Lighting Professionals Lighting Guide, it is unclear from the evidence before me where the figure of 15 seconds is derived from. Furthermore, the Local Highways Authority has raised no objection to the frequency of change being no more than every 10 seconds, which the appellant's Highway Safety Appraisal² found to be appropriate in this case. This has not been disputed.

10. I conclude that the disputed conditions are not reasonable and necessary to make the advertisement acceptable in the interests of public safety. However, the appellant's suggested amended wording for Condition 9 to allow higher luminance during the daytime, and to Condition 10 to allow an increased rate of content change to every ten seconds is reasonable and necessary to make the advertisement acceptable, in accordance with PLG05. Therefore, Conditions 9 and 10 should be amended accordingly.

Other Matters

11. The Canal and River Trust have suggested that Conditions 9 and 10 are also required in the interests of the biodiversity and visual amenity of the Old Mainline Canal Corridor. There is no substantive evidence to suggest that amendments to Conditions 9 or 10 would result in any material adverse effects with regards to these matters.

Conclusion

12. For the reasons given above the appeal should be allowed.

H Marriott

INSPECTOR

² Technical Note 01, Highway Safety Appraisal Supporting information by Axis P.E.D. Ltd, ref: 3781-01-HTN01 dated July 2024