



Appeal Decision

Site visit made on 19 March 2025

by **C Harding BA (Hons) PGCert PGDip MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 April 2025

Appeal Ref: APP/P4605/H/24/3355878

Tyseley Depot, Warwick Road, Birmingham, B11 2HJ

- 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 Birmingham City Council.
 - The application Ref 2024/03965/PA was approved on 30 September 2024 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is installation of a digital advertising screen (D-poster).
 - The condition in dispute is No 3 which states that: *"The intensity of the luminance of the advertisements hereby granted consent shall be no greater than 300 candela per square metre"*.
 - The reasons given for the conditions are: *"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 DM7 of the Development Management in Birmingham DPD 2021 and the National Planning Policy Framework."*
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Decision

1. The appeal is allowed and the express consent Ref 2024/03965/PA for installation of a digital advertising screen (D-poster) at Tyseley Depot, Warwick Road, Birmingham, B11 2HL granted on 30 September 2024 by Birmingham City Council is varied by deleting condition 3 and substituting it with the following condition:

"In the hours of darkness, the advertisement display luminance shall be no greater than 300cd/m². In daylight hours, the advertisement display luminance shall be controlled in order to reflect ambient light conditions and shall not exceed 5,000cd/m²."

Preliminary Matter

2. The Council has drawn my attention to the policies within the Birmingham Development Plan and the Development Management in Birmingham Development Plan Document ('DPD') it considers to be relevant to this appeal and I have taken them into account as material considerations. However, powers under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ('the Regulations') may be exercised only in the interests of amenity and public safety, taking account of any material factors. Therefore, in determining this appeal, the Council's policies, in themselves, have not been decisive.

Main Issue and Background

3. The Council approved the erection of a digital advertising hoarding which would replace a number of existing poster panels in the vicinity of the appeal site. The officer's report describes the proposal as being *"internally illuminated with an illuminance level of 300cd/m²."*

4. The Highway Authority raised no objection to the advertisement but suggested a condition be attached to any consent restricting the advertisement illumination levels to 300cd/m². A condition restricting the illumination of the proposal to this level was subsequently attached to the consent.
5. The appellant objects to the condition as they consider it to be unreasonable, as it would prevent the advertisement being visible in daylight.
6. The main issue, therefore, is whether the condition is reasonable in the interests of amenity and public safety.

Reasons

7. The provided advertisement consent application form indicates that the proposal would be illuminated and the stated illuminance level is 300cd/m². However, it also stated that *"Multicoloured brightness would be 300 cd/sqm from dusk to dawn and up to 5,000 cd/sqm at all other times dependent on time of day/year and ambient conditions, in line with ILP Guidance"*.
8. The Institute of Lighting Professionals Recommended Daylight Illumination Levels document sets out a range of maximum illumination levels for a range of daylight ambient light conditions. These range from less than 400cd/m² in overcast conditions up to 5,000 cd/m² in direct sunlight. The concept that the level of advertisement luminance would be required to vary due to ambient lighting conditions in order for the advertisement to remain visible is a valid one, and the appellant has suggested alternative conditions to this effect.
9. It has not been shown why the Council considered it necessary to restrict the illumination of the advertisement to a uniform level of 300cd/m². Equally, there is no substantive evidence before me which indicates that the increase in advert illumination during daytime hours to up to 5,000cd/m² would be unacceptably harmful to amenity or public safety. Consequently, I find no conflict with DPD Policy DM7 which requires, among other factors, that advertisements take account of public safety and amenity, and that illuminated advertisements should seek to avoid or mitigate adverse impact on uses or areas sensitive to light.

Conclusion

10. I therefore conclude that the disputed condition is not reasonable in the interests of the amenity of the area and public safety. I shall therefore allow the appeal and vary the original consent by deleting the disputed condition and replacing it with an amended condition.

C Harding

INSPECTOR