
Appeal Decision

Site visit made on 23 January 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 February 2017

Appeal Ref: APP/E5900/Z/16/3160910

Advert Flank Wall Dundee Arms, 339 Cambridge Heath Road, London E2 9LH

- 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 Mr Ben Porte of Insite Poster Properties against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/16/01382, dated 25 May 2016, was refused by notice dated 18 August 2016.
 - The advertisement proposed is an advertising hoarding on southern flank wall of existing public house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the description of proposal set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises of the retention of the existing illuminated advertisement measuring 6 metres by 3 metres. The Council dealt with the proposal on this basis and, as the description on the appeal form as it describes the proposal more fully, so shall I.
3. At the time of the site visit, the advertising hoarding was located on the side wall of the Dundee Arms public house. On this basis I will therefore deal with the appeal as a retrospective application.
4. In accordance with the National Planning Policy Framework (the Framework) and the Regulations¹, my consideration of this appeal is confined to the issues of amenity and public safety, taking into account the provisions of the development plan, so far as they are material and any other relevant factors including cumulative impacts.

Main Issues

5. The main issues are the effect of the proposal on:
 - (i) the amenity of the area, having particular regard to the location of the appeal site in proximity to the Bethnal Green Gardens Conservation Area (the CA), the Grade II* listed Museum of Childhood and the Grade II listed York Hall; and

¹ Town and Country Planning (Control of Advertisements) (England) Regulations 2007

- (ii) public safety.

Reasons

Amenity

6. National planning policy seeks to secure high quality design and advises that poorly placed advertisements can have a negative impact on the appearance of the built environment². In addition to the specific advice relating to advertisements, the Framework also sets out Government policy in relation to the historic environment. Paragraph 126 states that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance.
7. The appeal site is not located within the CA, however the boundary of the CA is approximately 50 metres from the site. The significance of the CA is largely due to the formal public buildings in their open space and individual garden settings. In addition, the CA also contains a number of listed buildings which includes the Grade II* Bethnal Green Museum, located opposite the petrol filling station (PFS) and the Grade II York Hall located on Old Ford Road. Accordingly, preserving the setting of listed buildings is a matter of considerable importance and weight and I am therefore mindful of my duty under Section 66(1) of the Planning (Listed Buildings and Conservations Areas) Act 1990.
8. From the evidence before me I acknowledge that the appeal site has accommodated a form of advertising since at least 2004 and that this was upgraded to incorporate illumination in approximately 2008. I also note that following the refusal of a planning application in 2015³ the site has also been the subject of a dismissed appeal decision⁴ relating to a proposal to upgrade the advertisement to a digital format in 2016.
9. The advertising hoarding is located on the side wall of the Dundee Arms public house and faces south over the PFS single storey building and forecourt. The PTS also has a totem sign and other small scale illumination signage. Apart from this and the very modest illuminated signage for the United Mini Cab Service, which located a short distance from the appeal site, there are few other illuminated advertisements along Cambridge Heath Road and the wider CA.
10. I accept that the proposal is for a static backlit display and that the surrounding area is relatively well lit. However, although the proposal is of a standard relatively simple design, given the scale at 6 metres by 3 metres and its prominent second storey location facing onto the highway, I consider it is an overly dominant and conspicuous addition to the street scene.
11. I accept that there is a relatively modest degree of separation between the appeal site and the location of the listed buildings. However, given predominately commercial setting of the immediate locality, the level of existing street clutter, the heavily trafficked highway and the mature tree line, I find that the proposal would not result in a magnitude of change in relation to the setting that would constitute harm. Hence, the effect of the proposal would

² National Planning Policy Framework paragraph 17, 4th bullet point and paragraph 67

³ Council reference PA/15/02296

⁴ Appeal reference APP/E5900/Z/15/3139943

be neutral and therefore the setting of the nearby listed buildings would be preserved. However, the presence of the hoarding would be particularly pronounced during the hours of darkness thereby compounding its visual impact. As such, I consider that the proposal would be detrimental to the amenity of the area and would fail to preserve the character and appearance of the CA.

12. Accordingly, despite finding no harm in relation to the setting of the listed buildings, this does not diminish the harm to the character and appearance of the CA that I have found above.
13. On this issue, I therefore find that the proposal would conflict with Policies 7.5 and 7.8 of The London Plan 2016, Policy SP10 of the Tower Hamlets Core Strategy: Development Plan Document 2010 (the CS) and Policies DM23, DM24 and DM27 of the Tower Hamlets Managing Development Document: Development Plan Document 2013 (the DPD) which amongst other things seek to ensure that development respects and enhances its context and sustains and enhances the significance of heritage assets. The Regulations, the Framework and Planning Practice Guidance (PPG) require that decisions are made only in the interests of amenity and public safety and therefore, the Council's policies cannot be decisive. However, I have taken these policies into account as material considerations.
14. The Council has also referred to Policy SP09 of the CS. However, this policy is primarily concerned with pedestrian safety and as such, I do not consider it is of relevance in relation to amenity.

Public Safety

15. Paragraph 067 of the PPG advises that 'All advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. For example, at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossings or other places where local conditions present traffic hazards.' Policy DM23 of the DPD states that advertisements must not have an adverse impact on either public or highway safety.
16. The appeal site is located on a relatively straight stretch of road, in proximity to the traffic light controlled junction of Old Ford Road and Cambridge Heath Road. At the time of my site visit, I observed that this was a particularly busy junction. In addition, given the proximity to Bethnal Green underground station, bus shelters on both sides of Cambridge Heath Road and the adjacent commercial/retail units the area is also a busy pedestrian route. Furthermore, cyclists are also likely to be entering or leaving the road in proximity of the junction due to the cycle hire facility located on the pavement outside the PFS.
17. The appellant has confirmed that the illumination level of the proposal would not exceed 600 candelas per square metre. Cambridge Heath Road is not managed by Transport for London (TfL), however the Council has made reference to TfL guidance in relation to the intensity of illuminance not exceeding 300 candelas per square metre during the hours of darkness.
18. Notwithstanding this guidance, the Council Highways Team did not raise any objection to the scheme. Nonetheless, the Council contend that the

illumination of the proposal would distract drivers and result in an increased likelihood of unacceptable danger to users of the highway.

19. Despite the concerns of the Council and the busy junction, no accident data has been referred to or provided detailing accidents or incidents within the immediate vicinity and whether such incidents are considered directly attributable to the existing advertising hoarding.
20. The advertisement would be that of a static display. As such, due the adjacent PFS roof line and totem sign, the railway line and existing street furniture, I consider that the display could be readily assimilated at some distance from the junction. This is also a view that was shared in the previous Inspectors decision in relation to the site.
21. Moreover due to the height of the proposal, from the junction drivers would have only limited views of the advertisement as a consequence of it being sited at 90 degrees to the highway. Therefore, I do not consider that the proposal would have an adverse effect on the safety of the junction or wider highway.
22. The fact that the junction is entirely controlled by traffic lights also provides greater assurance that it would continue to operate safely. Overall, I am not persuaded that the proposal would prejudice conditions of public safety. Therefore, as far as such factors are material, I do not find conflict with Policy DM23 in relation to public or highway safety.

Conclusion

23. I have found that the proposal would not have an unacceptably harmful effect in relation to public safety. However, the harm in relation to amenity is decisive.
24. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR