
Appeal Decision

Site visit made on 13 March 2017

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 29 March 2017

Appeal Ref: APP/V5570/Z/16/3165892

Bus shelter outside 46 Newington Green, Islington London N16 9PX

- 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 Mohamed Ahmed (J C Decaux UK Ltd) against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/3426/ADV, dated 31 August 2016, was refused by notice dated 29 November 2016.
 - The advertisement proposed is described as a "double-sided freestanding forum structure featuring 2x digital 84" screens positioned back-to-back. The digital screen is capable of displaying illuminated, static and dynamic content, supplied via a secure remote connection. In the event of an emergency, TFL will be able to override the advertisement function and display an 'Emergency Message', alerting the public of immediate danger. Structure to be installed within the footprint of the existing advertising asset. Elevation drawings and technical specification documents of the forum structure are enclosed"
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Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement 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 Regulations and the following additional conditions:-
 - 1) The advertisement displays shall be statically illuminated and the illumination shall be no greater than a maximum steady brightness of 300 Cd/m² during the hours of darkness.
 - 2) No special visual effects of any kind shall be permitted during the time that any message is displayed. The displayed image shall not include animated, flashing, scrolling, intermittent or video elements.
 - 3) No visual effects of any kind shall be permitted to accompany the transition between any two successive messages. The replacement image shall not incorporate any fading, swiping or other animated transitional method.
 - 4) The minimum time between successive displayed images shall not be less than 10 seconds and the display shall include a mechanism to freeze the image in the event of a malfunction.
 - 5) The advertisements shall not sequence messages relating to the same product.
 - 6) During the installation and maintenance of the consented advertisements the footway and carriageway shall not be blocked.
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Temporary obstruction during the installation of the consented advertisements shall be kept to a minimum and shall not encroach on the clear space required to provide safe passage for pedestrians or obstruct the flow of traffic.

Procedural Matter

2. I have used the address given on the Decision Notice in the banner heading above as this comprehensively captures the location of the appeal site.

Main Issue

3. The main issue in this appeal is the effect of the proposed advertisements on amenity in terms of whether they would preserve or enhance the character and appearance of the Newington Green Conservation Area.

Reasons

4. Situated in Newington Green Conservation Area, the appeal site is across the road from the Green itself, close to a road junction. Currently occupied by a bus shelter, which includes a double-sided advertisement totem structure at one end, the environs of the site are commercial in character, with shop fronts predominantly of a modern character immediately to the rear, with varying types of signage, and including uses operating into the evenings. There is a plethora of street furniture in the immediate environs of the site including belisha beacons and traffic lights. The proposed advertisement would replace the existing one at the site as an integral element of the bus shelter.
5. The proposed advertisement would be located in a commercial area, where sources of illumination including street furniture and shop fronts form a backdrop. Moreover, it would replace an existing advertisement currently occupying the site. Whilst the proposed advertisement would be slightly bigger, it would not be so to a degree that would appear excessively bulky. Furthermore, whilst I note that the appeal site is inter-visible with listed buildings, the commercial and transport functions of the environs mean that the proposed advertisements would not read as incongruous elements within their settings. Conditions could be attached to limit the luminance of the proposed advertisements, which would help them to assimilate readily into the prevailing context. Consequently, the proposed advertisements would not cause harm to the character and appearance, and thus the amenity, of their surroundings. For these reasons, and mindful of my statutory duty arising under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the proposed advertisements would preserve the character and appearance of the Newington Green Conservation Area.
6. I am aware that the Newington Green (CA12) Conservation Area Statement (adopted March 2014) (the Statement) states at paragraph 241, that "Internally illuminated signs will not be permitted". However, for the reasons given above I consider that the proposed advertisements would avoid harm to the amenity of the area, and this justifies departure from the guidance of the Statement in this case. Furthermore, a generalised concern about the effects of illuminated signage does not weigh heavily against the proposed advertisements in the overall planning balance.
7. Accordingly, as I have found that the proposed advertisements would preserve the character and appearance of the Conservation Area, I consider that they

would not conflict with Policies CS8 and CS9 of Islington's Core Strategy (adopted February 2011); or Policies DM2.1, DM2.3 or DM2.6 of Islington's Local Plan Development Management Policies (adopted June 2013). These policies are material to this case insofar as they seek to protect amenity; and given that I have concluded that the proposed advertisements would cause no harm to amenity they would thus not conflict with the relevant aspects of these policies.

Other Matter

8. I note concerns regarding the highway safety effects of the proposal. However, the proposed advertisements would replace an existing structure on an area with a reasonably wide pavement, and thus would cause no harm to the safety or convenience of pedestrians in its immediate environs. Furthermore, I have attached conditions that restrict the luminance of the advert and display of moving images, visual effects and transitions, which would mean that the advertisements would not be unduly distracting to the drivers of passing vehicles. I am also aware that there were no local highway authority objections to the scheme. Consequently, I consider that the proposed advertisements would cause no significant harm to highway safety; and as a result adverse impacts to public safety would be avoided.

Conditions

9. I have been supplied with a list of conditions by the appellant, and have considered the conditions suggested in the Council's officer report. I have assessed these against the tests given in paragraph 206 of the National Planning Policy Framework.
10. In the interests of the visual amenity of the advertisements' surroundings, and public safety more generally, I have attached a condition restricting their luminance, which will ensure that they would assimilate with the character and appearance of their surroundings, and would not constitute a dazzling feature at road side that would unduly distract drivers within the vicinity. Given that they are located in a Conservation Area, I have specified a maximum luminance of 300 Cd/m² during the hours of darkness in the condition. However, I have not found it necessary, given the character of the appeal site's surroundings to restrict the levels of luminance during the hours of daylight.
11. In the interests of public safety, I have attached conditions restricting the sequencing, animation, transition time and the use of visual effects within the advertisements, to minimize driver distraction.
12. In the interests of public safety I have attached a condition requiring the footway to remain open and for vehicular traffic to be unimpeded during the construction and maintenance of the proposed advertisements.

Conclusion

13. For the reasons given above, and having regard to all other matters raised, the appeal should succeed.

G J Fort

INSPECTOR