
Appeal Decision

Site visits made on 15 and 16 August 2017

by Gloria McFarlane LLB(Hons) BA(Hons) Solicitor (Non-practising)

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

Decision date: 29 August 2017

Appeal Ref: APP/H5390/G/16/3165239

Riverbank House, 1 Putney Bridge Approach, London, SW6 3JD

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a Discontinuance Notice relating to the use of a site for the display of advertisements with deemed consent.
 - The appeal is made by Putney Bridge Approach Limited against discontinuance action by the Council of the London Borough of Hammersmith and Fulham.
 - The Council reference is 2016/01153/ADVERT. The Discontinuance Notice is dated 6 October 2016.
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Decision

1. The appeal is dismissed. The Discontinuance Notice shall come back into effect immediately and that the use of the site for the display of illuminated advertisements with deemed consent cease by the end of four weeks from the date of this decision.

Preliminary Matters

2. The advertisements currently displayed are illuminated and the discontinuance action is against the use of the building for the display of illuminated advertisements. I therefore made two visits, one in the day-time and one at night.
3. The Appellant is the owner of the site. An appeal against the discontinuance action has also been made by JCDecaux UK Limited, the sales agent for the site, and this appeal is the subject of a separate decision¹ although many of the matters covered in this appeal are replicated in that appeal.

Main Issue

4. The main issue is whether the continued use of the site for the display of advertisements with deemed consent would be substantially injurious to amenity.

The Notice

5. The Discontinuance Notice issued pursuant to Regulation 8 of the 2007 Advertisement Regulations relates to the use of the site for the display of advertisements. The existing advertisements comprise two landscape advertisements measuring 7.68m x 3.84m and 8.32m x 4.48m. Both advertisements are illuminated and feature automatic sequential change of messages.

¹ APP/H530/H5390/G/3165221

6. The notice is in respect of Riverbank House and no specific location on the building is cited. The reasons for issuing the notice refer solely to the illuminated advertisements inside the building and the notice requires the discontinuance of the building for the display of illuminated advertisements.

The Regulations and Policy

7. The test in Regulation 8 requires that there must be 'substantial injury to the amenity of the locality or a danger to members of the public'. There is no danger to members of the public in this case.
8. The powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety taking account of any other material factors. Although Policy DM G8 of the Council's Development Management Local Plan is a material consideration it cannot be decisive in itself.
9. The National Planning Policy Framework (the Framework) is relevant and reiterates that amenity and public safety should be the only considerations relating to the control of advertisements. However, I have had regard to the presumption of sustainable development and paragraphs 17 and 19 which place significant weight on the encouragement and support of economic development and it is acknowledged that outdoor advertising is a major contributor to commercial activity.
10. The Planning Practice Guidance (PPG) also refers to the test of 'substantial injury' being caused to amenity. The PPG advises that a local planning authority needs to precisely define the site and justify its reasons for issuing a discontinuance notice². I have had regard to the relevant matters in both the Framework and the PPG.

The site and surroundings

11. Riverbank House has a six storey central tower located on a west-east axis with a two storey glazed frontage on a north south axis; the frontage is parallel with Putney Bridge Approach which is a busy north-south route with four lanes of traffic. 'D' shaped double height glazed areas have been added to both ends of the frontage and it is within these areas that landscape format advertisements measuring 7.68m x 3.84m (north facing) and 8.32m x 4.48m (south facing) are located. Both advertisements are digitally illuminated and feature automatic sequential change of messages.
12. The building is located on a triangular plot bounded by Putney Bridge Approach, Fulham High Street and Gonville Street. A Premier Inn is to the south of Riverbank House on the opposite side of Gonville Street and to the north there is a four storey residential block. The Grade II* listed All Saints Church and Vicarage Gardens are on the opposite side of Putney Bridge Approach.
13. Riverbank House is not in a Conservation Area but all the surrounding land, including Putney Bridge, is designated as being within one of four different Conservation Areas.

² Paragraphs 49 and 50

Reasons

14. The PPG advises that 'amenity is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement'³.

The south facing site

15. The south facing site is most visible to pedestrians or those in vehicles travelling north over Putney Bridge on the western side although it can be seen by pedestrians travelling towards it on the other side for a short distance. There is no other general advertising in the area and for this reason the advertisement with its illumination and moving display is extremely prominent. This was particularly so at night when, at the time of my visit, the top four floors of the block were in darkness and those windows that were lit had blinds reducing the light. The advertisement, in all of its displays, was considerably brighter than those windows that were lit.
16. The advertisement, in what did not appear to me to be an atrium as described by the Appellant because the glass addition was blocked off from the two floors behind it and it was totally separate from the building, was in complete contrast with the greenery and trees of Bishop's Park and the Vicarage Gardens opposite during the day and the unlit space during the night. When exiting from the Gardens the advertisement was conspicuous and dominated the street scene as it did in from views towards it from most viewpoints. This was again particularly so at night.
17. I have a statutory duty to pay special regard to the setting of listed buildings and the character and appearance of Conservation Areas⁴. All Saints Church is largely secluded by its surrounding Gardens and because the site is not visible from it I consider there is no harm to its setting but the distinction between the commercial nature of Riverbank House and the advertisement with the almost rural area around the Church is a marked one.
18. The addition to the building in which the advertisement is located is of sufficient size to permit a large advertisement. Because of its size and the moving images the advertisement disrupts the much smaller scale pattern of the windows of the tower block and is incongruous.
19. In contrast, the illuminated advertisements for the Premier Inn are site specific, smaller and lower in luminosity than the advertisement at Riverbank House. The illuminated installation is not static and advertisements change regularly as part of the display. This leads to a flashing effect and a great variety in colour and light levels between advertisements. The result is a distracting and disturbing pattern of light on the adjacent hotel which I consider has an adverse effect on its amenity.

The north facing site

20. The northern side of the building is very prominent in views from Fulham High Street given the open nature of Putney Bridge beyond and the green area of Bishop's Park and Vicarage Gardens. As with the south side there is no general

³ Paragraph: 079 Reference ID: 18b-079-20140306

⁴ S.66 and s.72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990

advertising in the area and the large advertisement has a discordant and conspicuous impact on the edge of one Conservation Area and the beginning of another.

21. Also the flashing effect on the residential premises at Simms Court is greater than on the Premier Inn given its closer proximity to Riverbank House.
22. My reasons above with regard to the glass addition, the lights in the tower and the scale of the advertisement on the south facing site also apply to the north facing site.

Other Matters

23. Whilst I accept that the area in general is well lit there is a considerable difference in effect on amenity between a lighted building with glass windows and illuminated and moving advertisements and I consider that the latter, in the context of this site, has a seriously injurious effect on amenity.
24. The Appellant has provided a Lighting Assessment report which addresses the impact of the two advertisements. The luminance of the three displays that were in operation at that time (December 2016) was measured. The conclusion was that the luminance limits of the screens and the resulting light trespass/intrusion were well below the recommended limits for an environment such as the one in which the site is located. However, it is apparent that the displays change and therefore those conclusions may not be the same for a different display.
25. The Lighting Assessment report also notes that there is no scientific method for evaluating the amenity value, nor the positive or negative impact that LED screens of this type may have. I have mentioned above, among other things, the negative effect I saw of the flashing effect as the displays changed and there is no reference in the report to this effect.
26. The Appellant has provided a Heritage Appeal Statement which I have taken into account. However, the Statement does not alter my conclusion that the site causes substantial injury to amenity which is a different test to that required when considering harm to the setting of a listed building. Neither test, in my opinion, is mutually exclusive.
27. When granting permission for the raising of the building by two storeys and recladding the Inspector noted in 2011 that external lighting should be controlled by condition 'because of the visibility and sensitive surroundings [of the building]'⁵. Although the illuminated advertisements at the two ends of the building are not external they appear to be because of their siting behind large expanses of glass and they increase the visibility of the building and have an adverse effect on amenity.
28. I have also taken into account appeal decisions referred to by the Appellant relating to a site in another part of the Council's area⁶. Whilst I note some similarities it seems to me that the location and circumstances of that appeal site are significantly different from those in this appeal including it being adjacent to the Great West Road which is a three lane in both directions dual

⁵ APP/H5390/A/11/2154054 Paragraph 22 - Appendix 4 to the Appellant's grounds of appeal

⁶ APP/H5390/G/16/3157187 and 3157176

carriageway and which has a large number of illuminated hoardings along it in both directions⁷.

Conclusions

29. The Notice requires the discontinuance of the use of the building for the display of illuminated advertisements with deemed consent pursuant Class 12 of Part 2 of Schedule 3 to the Regulations. Given the location and orientation of the building as a whole I consider for the reasons given above that any illuminated advertisement on the site would be substantially injurious to the amenity of the locality.
30. For the reasons given above I conclude that the continued use of the site for the display of illuminated advertisements with deemed consent would be substantially detrimental to the interests of amenity.

Gloria McFarlane

Inspector

⁷ Paragraphs 6 and 8