The Planning Inspectorate

Appeal Decision

Site visit made on 31 July 2017

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 30 August 2017

Appeal Ref: APP/T5150/Z/17/3176241
Advertising rights adjacent to 299 Cricklewood Broadway, London NW2 6NX

- 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 Richard Page, Insite Posters Properties Ltd against the decision of the Council of the London Borough of Brent.
- The application Ref 17/0455, dated 18 January 2017, was refused by notice dated 11 April 2017.
- The advertisement proposed is described as 'replacement of 2no existing 48-sheet advertisement displays with a 48-sheet digital LED display'.

Decision

1. The appeal is allowed and express consent is granted for the replacement of 2no existing 48-sheet advertisement displays with a 48-sheet digital LED display 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 Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the following additional conditions:

    1) The intensity of the illuminance of the advertisement shall be no greater than 600 candela/square metre during the day and 300 candela/square metre during hours of darkness.

    2) The display shall not change more than once every 10 seconds, the use of message sequencing for the same product is prohibited and the advertisements shall not include features or equipment which would allow interactive messages or /advertisements to be displayed.

    3) There shall be no special effects (including noise, smell, smoke, animation, flashing, scrolling, three dimensional, intermittent or video elements) of any kind during the time that any message is displayed.

    4) The interval between successive displays shall be instantaneous (0.1 seconds or less), the complete screen shall change, there shall be no visual effects (including fading, swiping or other animated transition methods) between successive displays and the display will include a mechanism to freeze the image in the event of a malfunction.

Procedural matters

2. In accordance with the National Planning Policy Framework (the Framework) and the Regulations, 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.

3. It is proposed that the two existing 48 sheet advertisement are replaced by one 48 sheet digital LED display. It is not disputed by the Council that the existing advertisements have been displayed for more than 10 years. Schedule 3 of the Regulations sets out the classes of advertisement that benefit from deemed consent. Subject to conditions and limitations, Class 13 includes an advertisement displayed on a site that has been used continually for the preceding ten years for the display of advertisement without express consent. Whilst I do not have sufficient evidence to make a definitive judgement as to whether the advertisements meet the conditions and limitations of Class 13 and benefit from deemed consent, the Council have indicated that the existing advertisements are 'immune from enforcement action', and so I have assessed the proposal on the basis that if the appeal were to be dismissed, the existing advertisements would remain.

Main Issues

4. The main issues in the appeal are the effects on amenity and on public safety.

Reasons

Amenity

5. The proposed advertisement display would be situated on the flank wall of 299 Cricklewood Broadway at the junction with Mora Road. No 299, which has a ground floor retail premises, is situated at the end of a parade of shops. Opposite No 299 on Cricklewood Broadway is a short parade of shops whilst across Mora Road is situated the Heritage Inn Rhum Bar.

6. At 6 metres by 3 metres, the proposed advertisement would be half the total size of those existing and it is proposed that it would be illuminated at 600 candela (cd)/square metre in daylight and at 300 candela (cd)/square metre during night time hours. This would accord with the guidance issued by the Institute of Lighting Professionals[1]. The proposed display would present static images which would change every 10 seconds. There would be no movement, animation or flashing lights.

7. The Council has identified that there are what appear to be residential premises above the Heritage Inn Rhum Bar opposite the appeal site. This has not been disputed by the appellant and accords with my observations on site, where I saw a number of windows on the first and second floors of the building which face towards No 299. The outlook from these windows is principally across Mora Road, with those nearest Cricklewood Broadway facing towards the flank wall of No 299, the existing advertisements and a street light.

8. I have had regard to the Councils Supplementary Planning Guidance Number 8 Advertisements (other than shops) (SPG). The SPG sets out that illuminated advertisement larger than 10 square metres would not normally be permitted and that illumination of signs of up to 10 square metres should be restricted to 600cd/square metre in residential areas. Whilst the sign is significantly larger than 10 square metres, it is also appreciably smaller than the existing advertisement and the level of illumination proposed at 300cd/square metre at

[1] The Brightness of Illuminated Advertisements', 2015

night is below that set out in the Council's guidance and accords with the guidance issued by the Institute of Lighting Professionals. Given the level of illumination proposed, the location on Cricklewood Broadway at parade of shops, with street and other lighting, I have not been convinced that the proposed advertisement would constitute a significant and prominent source of illumination or would cause an unacceptable detrimental impact to the amenity of neighbouring residents.

9. The existing advertisements occupy a significant part of the flank wall of No 299 extending from the eaves down about two thirds of the building and are prominent in the street scene, having a significant effect on the appearance of the building. The proposed advertisement would be half the size of the total of those existing and would be positioned more centrally on the wall, appreciable below the eaves height of the building. Whilst the advertisement would be illuminated, it would be more proportionately sized in respect of the host building than those existing. I have had regard to the comments that the existing advertisement may cover windows and decorative features of the host building but this has not been demonstrated. I do not find that the proposed advertisement would be a disproportionate or an incongruous addition to the host building.

10. I have taken into account Policy DMP 1 of the London Borough of Brent Local Plan 2016 Development Management Policies (DMP) which includes amongst other things that development will be acceptable provided it is of a location, use, concentration, siting, layout, scale, type, density, materials, detailing and design that provides high levels of internal and external amenity and complements the locality. I have also taken into account Brent Core Strategy Policy 17 which is concerned with protecting the suburban character of Brent. I find no conflict with the policies cited. I also consider that the proposal accords with paragraph 67 of the Framework. Whilst I find that the appeal scheme does not accord with the SPG, I nevertheless find that it would not have unacceptable effects on amenity.

Public safety

11. I saw at my site visit that there is a bus lane on Cricklewood Broadway, which is part of the A5 road, opposite the appeal site and traffic signs indicate a no right turn from Cricklewood Broadway into Mora Road, which is subject to a 20 mph zone. I also observed that the edge of the existing advertisements on the appeal site can be seen from along Cricklewood Broadway from the pedestrian crossing near to the junction with Temple Road. As one travels south east along Cricklewood Broadway, the full extent of the advertisements becomes apparent. Due to their size, the existing advertisements are particularly prominent.

12. The no right turn onto Mora Road is indicated by illuminated road signs. The sign at the junction is seen in close proximity to the existing advertisements and there is no evidence before me that the existing advertisements have given rise to any issues in respect of pedestrian or vehicular safety. The proposed advertisement, whilst being illuminated, would be half the size of those existing and being positioned higher on the wall, would provide greater visual separation with the no right turn traffic sign. Whilst drivers need to take account of the bus lane and speed camera, these are clearly indicated and visible in advance of the junction with Mora Road. I do not consider that the

proposed advertisement would be any more of a distraction to drivers or pedestrians than those existing. There is no technical evidence before me to justify illumination of the proposed advert to be limited to 250cd/square metre as has been suggested by the Council.

13. I have had regard to DMP Policy DMP1 and the SPG but do not find that the appeal scheme to be unacceptable in terms of public safety.

Conclusion and conditions

14. For the reasons given above, I consider that appeal should be allowed.

15. I shall impose the five standard conditions set out in the Regulations. As an advertisement is involved the consent should be subject to the five standard conditions included in the Regulations. The application sought consent for a period of ten years. However, express consent is usually granted for a period of five years, although this period can be shortened or extended. In this case no specific reasons are given why a ten year period is sought and, therefore, I see no reason to apply a different period.

16. The appellant and the Council have suggested a number of conditions. Firstly, I consider that the advertisement should operate at an illumination level no greater than 600cd/ square metre during the day and 300cd/ square metre at night in the interests of amenity. I also consider it necessary in the interests of amenity to impose conditions that the display shall not change at a frequency of more than once every 10 seconds, use message sequencing or display interactive messages, that there should be no special effects of any kind and that the interval between successive displays should be instantaneous.

Philip Lewis

INSPECTOR