



Appeal Decision

Hearing Held on 12 June 2019

Site visit made on 12 June 2019

by M Seaton DipTP MRTPI

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

Decision date: 13 November 2019

Appeal Ref: APP/F5540/H/18/3207953

Former Alfa Laval Building, Great West Road, Brentford, TW8 9AX

- 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 Stephen Tokaya on behalf of Blow Up Media UK Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00505/Z/AD46, dated 4 April 2018, was refused by notice dated 31 May 2018.
 - The advertisement proposed is for the provision of an externally illuminated advertisement measuring 27m in width and 17.5 m in height, set within an art deco shroud on the western elevation of the Alfa Laval Tower.
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Procedural Matter

1. The appellant submitted an additional plan during the course of the appeal. Drawing Ref. PY3213/001 rev. A, showing an alternative arrangement for the advertisement and shroud on the western elevation of the tower. The revision encompasses a display area of 14m width & 25m height, in contrast to the originally submitted 27.1m width & 17.5m height. The advertisement would be set towards the northern end of the tower closest to the elevated section of the passing M4 motorway. The appellant indicates the plan reflects a more recent application for advertisement consent (*LPA ref. 00505/Z/AD48*), which at the time of the Hearing had not been determined, and the status of which I have not been further advised as having changed subsequently.
2. I have carefully considered the implications of accepting this plan in the light of the principles of the judgement in *Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]*. The 'Wheatcroft Judgement' is essentially premised upon whether a development is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
3. In this instance, I recognise that the area of the advertisement as shown on the revised plan would amount to an overall reduction in area from the advertisement area as originally proposed. I also accept that Transport for London, Highways England, and interested parties would have been consulted on the more recent application and would have had an opportunity to comment on the revised scheme in the context of the other advertisement application. However, the varied arrangement, position and depth of the proposed advertisement would clearly alter the basis for assessment of this appeal from the development which was originally proposed and assessed by the Council and for which interested parties were notified. Irrespective of the status of any

objections on the other application, the submission of the revised plan just 5 days prior to the date of the Hearing would not have been anticipated by interested parties or other bodies notified of the event. As a consequence, to determine the scheme on the basis of the revised plan would be unexpected and unreasonable in the absence of any prior consultation in advance of the Hearing in the context of the submitted appeal.

4. It is therefore my conclusion that the revised plan showing an alternative arrangement for the advertisement should not be accepted, and it has not therefore formed any part of my assessment of the proposal.

Decision

5. The appeal is allowed, and consent granted for the provision of an externally illuminated advertisement measuring 27m in width and 17.5 m in height, set within an art deco shroud on the western elevation of the Alfa Laval Tower as applied for, and in accordance with the plans submitted with the application. The consent is for 18 months from the date of this decision and is subject to the standard conditions as set out in the Regulations, as well as the following additional conditions below:
 1. Where an advertisement is required under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.
 2. The advertisement hereby granted consent shall be illuminated only between the hours of 16:00 and 23:00 on any day.
 3. The advertisement hereby consented shall not exceed a maximum illumination, as measured from the place of the eastern elevation of 42 Brook Lane North of 10 lux.
 4. The illuminated advertisement screen hereby consented shall not exceed a luminance of 300 cd/m².

Main Issue

6. The National Planning Policy Framework (the Framework) sets out at paragraph 132 that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
7. In this instance, the Statement of Common Ground (SoCG) indicates that the advertisement as proposed has not attracted any objection on the grounds of public safety. In this regard, it is the effect of the proposed advertisement on amenity which is the principal issue of dispute between the appellant and the Council. On the basis of the submitted evidence and my observations of the existing appeal site and its environs, this is a conclusion with which I would agree.
8. The main issue therefore is the effect of the advertisement on amenity.

Reasons

9. The appeal site is occupied by the Alfa Laval Baltic Centre building which is comprised of a 13-storey tower situated in close proximity to the elevated

section of the M4 motorway and near to the junction between the Great West Road and Brook Lane North. The building is indicated within the SoCG as having been derelict since 1996, and at the time of my visit the building clearly remained unoccupied and in a comparatively poor condition. However, to the south and east of the tower, the remainder of the former Alfa Laval site has now been largely redeveloped for residential and other purposes.

10. The appeal site has been the subject of a complicated and extensive history which in the context relevant to the appeal proposals has included a series of advertisement consents for the installation of a shroud over the building and the display of externally illuminated advertisements. The most recent of these was identified at the Hearing as having been for *the retention of externally illuminated advertisement sign set within a shroud on the west elevation of the building for a temporary period of 8 months* (LPA Ref: 00505/Z/AD44), as approved on 10 November 2016.

Character and appearance

11. The SoCG highlights that the appeal site lies within *Character Reach C Great West Road (Golden Mile – Ealing Road to Boston Manor Road)*, of the London Borough of Hounslow Urban Context and Character Study, 2014 (the Character Study), and is towards its eastern end. This character reach constitutes the middle section of the Brentford stretches of the Great West Road, which has been known historically as the *Golden Mile*, and comprises the greatest mix of uses including retail, community and office uses in addition to residential. The eastern end of the reach is characterised by tall landmark structures including the Alfa Laval Tower which forms part of the Great West Quarter mixed use development. The land to the north and south of the character reach is predominated by residential development of a more domestic scale, with 2-storey dwellings punctuated by occasionally larger residential development.
12. I have carefully considered the submissions of the parties in judging the prevailing character of the area. Whilst it is clear that the predominant character of the wider area is that of a domestic and suburban scale of residential development, the appeal site is rightly classified as being set within a different context and within a corridor of more mixed and commercial uses as defined in the Council's Character Study along the M4/Great West Road.
13. The visual impact of the existing tower and other tall buildings within the character reach are undoubtedly experienced as a departure from the suburban character across the wider area, and inevitably the proposed advertisement and shroud would also be experienced in this same vein. Even allowing for its comparatively different setting, the permanent display of an advertisement of this scale must be regarded as less desirable in principle in the context of the wider area. However, for such a conclusion to be reached on the basis of a temporary period, consideration must be given to an appropriate baseline for an assessment of its acceptability.
14. The SoCG sets out at paragraph 2.3 that the appearance of the existing building is of that of an eyesore, and on the basis of my observations of the building and the photographs submitted with the appellant's evidence, I see no reason to disagree with this conclusion. I also note that the Council accepts that the shrouding of the building alone has a visual benefit, a conclusion which the Inspector on the original 2007 advertisement consent also reached. However, whilst in the context of the condition of the existing building I would

also agree with the importance of the shrouding, the appellant disputes the divisibility of the shrouding and the advertisement.

15. I note that the appellant has not made any detailed financial submissions to demonstrate that there is an undeniable requirement for the advertisement as a means of facilitating the provision of the shroud. However, whilst the provision of such information would undoubtedly have been helpful in fully assessing the up-to-date position, I do accept the appellant's observations that there is an undoubted cost associated with the erection, and regular maintenance and (when necessary) replacement of the fabric of the shroud. Furthermore, despite the Council's submissions that a viability package has been provided by the appellants on previous submissions, I note that they also accept that there will be costs associated with the shroud.
16. In my decision-making on this aspect of the main issue, I have also had regard to the conclusion reached by the Inspector on the 2007 appeal decision that set out *"without the revenue from the advertisements there will be no shroud, thus the proposal stands and falls as a package."* Whilst I recognise that parts of the wider redevelopment have now occurred, I am not persuaded that the financial circumstances governing the financing of the shroud have materially changed from the position in 2007, with the erection and maintenance of the shroud still inevitably needing funding. No possible alternative means of funding the display was suggested by the Council and as such I therefore see no reason to depart from the previous conclusion that the advertisement and shroud stands and falls as a package.
17. In drawing my conclusions on the baseline for assessment, initial consideration must be given to the condition and appearance of the existing tower as unshrouded, which both parties acknowledge as being an eyesore and clearly benefit from the visual mitigation which a shroud would provide. Furthermore, I accept that the shroud and advertisement are indivisible and must be considered as a package. Even allowing for the duration of the display of advertisements on the tower already, a permanent advertisement of this scale and nature on the appeal site would not be desirable. However, a further temporary display again linked to the undertaking and completion of the redevelopment works I would conclude to be reasonable as a means of ameliorating the visual impact of the tower in the meantime.

Effect on living conditions

18. Turning to the impact of the proposed advertisement on nearby residents and in particular the occupiers at 42 Brook Lane North, the Council has expressed specific concerns over the effect of the projecting lighting and the visibility of the advertisement from the nearby property and consequent impact on outlook.
19. The proposed advertisement would be illuminated by virtue of 10no. externally hung projecting lights positioned horizontally across the top of the advertisement at the top of the tower. As per the condition agreed in the SoCG, the operation of the external lights would be limited to the period between 16:00 hours and 23:00 hours, and they would be to a maximum brightness of 300cd/m², in accordance with the recommended maximum values for an advertisement of over 10m² in Environmental Zone 4 (EZ4)

20. The appellants have submitted Lighting Assessments prepared by Bright Green Technology and Hydrock, and which conclude that, in accordance with the guidelines as set by the Institute of Lighting Engineers, that there would not be an unacceptable impact on the amenity of neighbouring residents. In this regard, the Council has not sought to provide its own technical evidence as a rebuttal, preferring instead to rely upon a qualitative visual assessment. Furthermore, I note the indication in the Statement of Case the Council's preference that the actual light measurements be considered against the more stringent criteria of Environmental Zone 3 (EZ3) as applicable to the majority of the Borough, rather than the accepted actual classification of the site as being EZ4.
21. On the basis of the technical reports, the illumination of the proposed advertisement would accord with both the pre-curfew (25lux) and post-curfew (5lux) benchmarks for illuminance within EZ4, as well as the pre-curfew (10lux) benchmark for EZ3. However, whilst I note the Council's contention that the post-curfew proposed illumination would not accord with the benchmark (2lux) for EZ3, I am mindful that the restrictions placed upon the timings of the operation of the lights requiring the cessation of their use by 2300 hours, the threshold time for 'curfew', results in the post-curfew assessments being essentially redundant in this instance. In the absence of any contrary technical submissions challenging the conclusions, I am satisfied based on the appellant's technical reports that there would not be an adverse or unacceptable impact on the living conditions of nearby residential units as a consequence of light pollution.
22. On the basis of my observations of the location of the proposed advertisement and the submissions, I would not disagree that the proposed advertisement would be visible from the residential properties at 42 Brook Lane North even allowing for its comparatively elevated position and would therefore feature in the outlook from the eastern elevation of the units. However, it is imperative to consider that the starting point for the assessment must be the tower without the shroud, for the reasons already set out.
23. In this respect, whilst the proposed advertisement would undoubtedly have a quantifiable negative effect on outlook from the residential properties at 42 Brook Lane North, this would be for a temporary period. Furthermore, in terms of outlook I am satisfied that for the requisite period that the adverse impact and visual harm from the advertisement would not be as keenly felt during the daytime as would be the absence of the shroud. Therefore, whilst I accept that the illumination of the advertisement would inevitably render the display far more visible of an evening than if it were not illuminated, I must conclude that the adverse impact on daytime outlook would be less than if the advertisement and shroud were not present.
24. I have had regard to the conclusions of the Inspector in the previous dismissed appeal from May 2018 (*Appeal Ref: APP/F5540/Z/17/3190052*), and in particular in respect of the impact on the living conditions of neighbouring occupiers during the daytime. Whilst the inspector clearly addressed the differing circumstances and context of the area as presented by the newly constructed residential block at 42 Brook Lane North, it is evident from paragraph 13 of the Decision Letter (DL) that no evidence had been adduced as to the existing condition of the tower without the shroud, or consideration given to the divisibility of the shroud and advertisement. The circumstances

and level of information provided in reaching the decision on the previous appeal in May 2018 are therefore different, and this earlier DL does not therefore set a precedent for my decision-making in this instance.

Conclusion

25. In considering the principal aspects and impacts of the proposed advertisement, I have concluded that given the baseline of the poor condition and appearance of the existing tower, and indivisibility of the shroud and advertisement, a further temporary display of the advertisement would be reasonable. Furthermore, whilst I have no doubt that the temporary advertisement would be at least in part visually harmful to nearby residents' outlook, its presence would mask the even more injurious appearance of the tower if left unshrouded. I have also accepted that the proposed illumination of the advertisement would be acceptable in the context of any impact on living conditions. As a consequence, I do not consider that the advertisement would, for the temporary period proposed, result in an unacceptable effect on amenity.
26. The Council's approach to advertisements is set out in Policy CC5 of the London Borough of Hounslow Local Plan 2015-2030 (the Local Plan). This policy, amongst other things, indicates that all advertisements must respect their context and not adversely impact on the amenity of residential properties. In addition, the policy also encourages the use of temporary shrouds and advertising where these make a positive contribution to the appearance of an area during construction or on site works. Whilst not decisive, I have had regard to this policy in my decision-making, although I have concluded that the proposed advertisement would not result in amenity concerns and would also accord with the Framework, which seeks to prevent the negative impact of poor advertisements.

Other Matters

27. I have had regard to the references made to a recent advertisement consent approved for the nearby car showroom in January 2018 further to an appeal (Ref: APP/F5540/H/16/3152328), and the Council's contention that as a consequence of the differing position, scale and characteristics of the approved advertisement, it should not be regarded as of relevance to the appeal proposals. However, whilst I have been mindful of the specific context and characteristics of the approved car showroom advertisement and that there are some similarities in respect of the issues raised, given the conclusions which I have set out above in the main reasoning this has not had any significant bearing on my decision-making.

Conditions

28. In addition to the standard advertisement conditions, the SoCG has set out further conditions which have been agreed by the parties. I also note that the Inspector for the January 2018 advertisement consent also applied conditions, as reported at paragraph 7.36 of the appellant's Statement of Case, which it has been accepted by the appellant would also in principle be reasonable.
29. I have reviewed the two sets of conditions, and I consider that conditions restricting the operation of the external lighting, requiring adherence to maximum illumination as measured at the eastern elevation of the building at 42 Brook Lane North, and seeking to control the luminance of the

advertisement, would all be reasonable and necessary in the interests of the amenity of the area and neighbouring residents.

30. At the Hearing, a discussion regarding the potential duration of any consent was discussed, with the appellant seeking a period of 18 months for the display of the advertisement. Whilst the Council raised some concerns over the realism of such a period given the duration of time taken for the redevelopment to this point, I am satisfied that allowing the advertisement consent for this period would be reasonable in light of the progress which has been made and the commencement on site, which to my mind indicates a serious intent to bring the site forward for development.
31. I have also included a condition addressing the removal of the advertisement and leaving the site in a condition that does not endanger the public or impair visual amenity, to ensure the removal of the advertisement upon the expiry of the 18 months consented for its display in this instance.

Conclusion

32. For the reasons above, and having regard to all matters before me, the appeal is allowed.

M Seaton

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Simon Russell	Managing Director, Blow Up Media UK Ltd
Steven Tokaya	Development Director, Blow Up Media UK Ltd
Ben Read	Black Box Planning (Appellant's Agent)
Euan Scanlon	Hydrock Consulting

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Rees	East Area Team Leader, London Borough of Hounslow (LBoH)
Kosma Nykiel	Central Area Planning Officer, LBoH
Leo Hall	East Area Planning Officer, LBoH
Eamon Cassidy	LBoH (Observing)

DOCUMENTS SUBMITTED AT AND FOLLOWING THE HEARING

1. Statement of Common Ground – signed 12 June 2019.
2. Copy of Appeal Notification Letter dated 18 April 2019 and details of addresses notified.