
Appeal Decision

Site visit made on 26 November 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2019

Appeal Ref: APP/H1515/H/19/3236418

11 Hatch Road, Pilgrims Hatch, Brentwood, Essex CM15 9PU

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a condition imposed when granting express consent for 1 x externally illuminated sign, 5 x externally illuminated lights (on extension arms) and 1 x externally illuminated fascia sign.
 - The appeal is made by Dr Warren Grayson Nolan against the decision of Brentwood Borough Council.
 - The application Ref 19/00279/ADV is dated 24 February 2019. The condition in dispute is No 2 which states that: *'The external lights approved shall not be illuminated outside business hours and shall not be illuminated beyond 20:30 hours'*. The reason given for the condition is: *'To safeguard the living conditions of nearby residents'*.
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Decision

1. The appeal is allowed and the express consent Ref 19/00279/ADV, which is for the display of 1 x externally illuminated sign, 5 x externally illuminated lights (on extension arms) and 1 x externally illuminated fascia sign at 11 Hatch Road, Pilgrims Hatch, Brentwood, Essex CM15 9PU granted on 12 July 2019 by Brentwood Borough Council, is varied by deleting Condition 2 and substituting it for the following condition:
 - 2) The external lights approved shall not be illuminated outside business hours and shall not be illuminated beyond 2230 hours.

Procedural Matter

2. The appellant, in their appeal statement, has referred to disagreement with point 4 on the Council's Decision Notice. Condition 4 refers to standard conditions set out in the Advertisement Regulations (2007), which all outdoor advertisements must comply with. I shall therefore deal with this appeal based on Condition 2 being the sole condition in dispute. Indeed, this approach is consistent with the arguments made in the evidence before me.

Main Issue

3. The main issue is whether the disputed condition is reasonable and necessary in the interests of protecting the living conditions of neighbouring residential occupiers.

Reasons

4. The appeal property makes up part of a short parade of units (the parade) occupied by commercial uses at ground floor level. The ground floor is in use as a chiropractic centre and a residential flat exists at first floor above (the

- upper floor flat). A strong residential presence can also be observed in the wider area.
5. The signage, extension arms and associated lighting for which express consent was granted are in place at the site. Four of the five consented extension arms are positioned directly above the appeal property's fascia sign and beneath upper floor windows that serve the upper floor flat. The remaining extension arm (the highest arm) is located above a separate sign that is also positioned to the property's front-facing elevation.
 6. The Council has raised particular concerns that illuminating the highest arm outside of business hours and past 2030 hours would have a detrimental impact upon the living conditions of the occupier(s) of the upper floor flat. This impact, it has been suggested, would be compounded by the fascia lighting below.
 7. The highest arm is positioned at a height akin to that of the cills of the front-facing window openings that serve the upper floor flat. However, the light fitting attached to the highest arm has been designed to direct illumination in a downward direction. Indeed, this is the case with all the extension arms and fittings that are in place. The light fittings that have been installed are of fairly discreet form and scale, which is consistent with the relatively modest illuminance levels indicated upon the application form. Nevertheless, whilst the external lighting has been designed to illuminate downwards, it would still be expected to be perceptible from above and there is insufficient evidence before me to demonstrate otherwise.
 8. The Council has confirmed that they have no record of any shops/units within the parade having received advertisement consent that covers lighting. Nevertheless, there are other units within the parade that are served by externally affixed light fittings, which cannot be ignored. There is also street lighting in place in the locality. Indeed, the commercial makeup of the parade and the built-up nature of the area leads me to find that some external illumination would not be uncharacteristic or unexpected during evening hours.
 9. It is relevant to note that it would appear, from the evidence before me, that the specific reference to 2030 hours in the disputed condition was not led by advice received from the Council's Environmental Health and Enforcement Manager at application stage in his or her role as an expert internal consultee.
 10. The appellant has suggested that 2230 hours would represent a more appropriate limit for external illumination at the site. Having taken account of the position, form and design of the lighting that has been installed and the presence of other light sources in the vicinity, I am sufficiently satisfied that a detrimental effect would not be caused to the living conditions of neighbouring occupiers by allowing, if and when the business is still open for evening business, external lighting to occur until 2230 hours.
 11. It is reasonable to expect that business hours would not extend to as late as 2230 hours as a matter of course every night of the week. If the permitted hours for the lighting to be illuminated were not linked to active business hours, this could potentially lead to external illumination occurring during late evening and early morning hours on a consistent daily basis. This would be most likely during periods of the year when daylight hours are at their fewest. Such circumstances would hold the potential to cause nuisance to and

adversely affect the living conditions of the occupier(s) of the upper floor flat. Thus, it is both reasonable and necessary for the illumination of external lighting to be limited to the centre's business hours.

12. The appellant has suggested that, on several occasions, illumination has occurred to a nearby business situated within the same parade without it being open. However, such instances would not justify unnecessary and potentially harmful lighting occurring at the appeal site. Indeed, particularly noting the proximity of the highest arm to the nearest upper floor window, I must consider the proposal before me based on its own merits and particular set of site circumstances.
13. For the above reasons I find that disputed Condition 2, as currently written, is not reasonable and necessary in the interests of protecting the living conditions of neighbouring residential occupiers. As such, should Condition 2 be altered to allow external lights to be illuminated until 2230 hours when within business hours, in accordance with the reasoning set out above, there would be compliance with saved Policy CP1 of the Brentwood Replacement Local Plan (August 2005) in so far as it requires that development will not have an unacceptable detrimental impact on the general amenities of nearby occupiers.

Other Matter

14. Any improvement to the lighting of the pathway situated outside of the site would cover a small area and provide a limited benefit, which does not alter my conclusions with respect to the main issue in this appeal.

Conclusion

15. For the above reasons the appeal is allowed. I will vary the planning permission by deleting and substituting disputed Condition 2.

Andrew Smith

INSPECTOR