

Appeal Decision

Site visit made on 24 December 2019 by Ifeanyi Chukwujekwu BSc MSc MIEMA
CEnv AssocRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2020

Appeal Ref: APP/U5360/Z/19/3239396

253 Flank Wall, Kingsland Road, Hackney, London, E2 8AN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Insite Poster Properties Ltd against the decision of the Council of London Borough of Hackney.
 - The application Ref 2019/2496, dated 8 July 2019, was refused by notice dated 10 September 2019.
 - The development proposed is replacement of an existing illuminated 48-sheet advertisement display with an illuminated 48-sheet digital advertisement display.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are: (1) The effect of the advertisement on the visual amenity of the area, and (2) public and highway safety.

Reasons for the Recommendation

Visual amenity

4. Amenity is not defined within the Regulations nonetheless relevant factors include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. In assessing amenity, it is reasonable to consider characteristics of the neighbourhood. For example, whether the proposed hoarding would be in scale and keeping with important features.
5. There is an existing illuminated 48-sheet advertisement display on the side elevation wall of 253 Kingsland Road which is the site of this appeal. However, the officer report indicates that the Council has no record of advertisement consent being granted for that display and it is difficult to ascertain whether it is an authorised advertisement from the information before me. The surrounding area is of mixed use and its distinctive character is derived from

rows of terraced properties which are predominantly residential although the host property as well as a number of other properties on Kingsland Road have had their ground floors converted for commercial purposes. Despite the existence of commercial uses in the area, digital illuminated advertisements are not a prevalent feature. Advertisement in this area is generally confined to shopfronts, is mostly non-illuminated and reasonably modest in design.

6. The existing display appears discordant in that context by virtue of its size and prominent location on the gable end of the building. By virtue of the sequential format of displaying advertisement, with changing images every 10 seconds or so, the proposed replacement digital display panel would appear more prominent than the existing internally illuminated 48-sheet advertisement display. Whilst the size of the proposal would be similar to the existing display, there is no record of that display having received advertisement consent. Furthermore, even if that represented a legitimate fall-back position, the sequential format with changing images every 10 seconds or so would accentuate its impact on the street scene. In addition, whilst the area may be well lit, and the intensity of the panel's illumination would accord with guidelines for illumination of advertisements¹, the proposal's illumination and changing images would be an incongruous feature which would compromise the character and appearance of the area, especially during the hours of darkness. The appellant further contends that night-time illumination would be reduced by up to 50% when compared to the existing unit but has not presented any evidence to support this assertion. In this location, the digital illuminated sequential display would be a discordant and unduly prominent feature. The type and design of the advertisement would detract from the street's quality along this section of Kingsland Road, and it would be visually harmful to the locality.
7. Framework paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Framework paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
8. No. 253 is located within Kingsland Road Conservation area (the 'CA') and is almost opposite the Shoreditch Health Centre, which is a 19th century Grade II listed two storey red brick building. Its distinctive character is derived from its early Georgian style symmetrical front elevation with a central entrance in four-window range, brick quoins, wooden modillion cornice, redbrick window arches and stone keystones. The building is of high quality and status. Shoreditch Health Centre is set back from the road and incorporates four rusticated gate piers in front of the entrance, with moulded stone caps and bases. These features contribute to the setting of Shoreditch Health Centre, as a landmark community centre set within a built-up area which is devoid of digital advertisement display.

¹ PLG 05: The Brightness of Illuminated Advertisements (Institute of Lighting Professionals 2015)

9. The National Planning Policy Framework identifies what is meant by the term "setting" as follows:
10. *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.*
11. The word 'experienced' has a broad meaning and can encompass many factors beyond purely visual connections. As noted above, the area is devoid of digital advertisement displays. The 19th century Georgian architectural setting is important in a visual sense, on account of the architectural character, and also the fact that the street scene is largely devoid of street furniture and digital illuminated advertisement reflects how the Shoreditch Health Centre relates with surrounding land uses.
12. The presence of an illuminated 48-sheet digital advertisement display would introduce a modern element to this setting and would pay little regard to that historical context. The scale of the structure would be substantial and by virtue of its elevated position would be noticeable from a distance on the northward approach on Kingsland Road, and even emerging at junctions with Laburnum Street and Whiston Road. The proposal's illumination and changing images would detract from the architectural interest of this locally listed building. As stated previously, it would also be an incongruous feature which would compromise the character and appearance of the area and fail to preserve the setting of the listed building and the CA and cause harm to the designated assets as a result.
13. The harm would be less than substantial, on account of the fact that the proposal would only affect part of the setting of the building and would not alter the built form of the structure. Nevertheless, taking account of the statutory duty to have special regard to preserving the listed building or its setting, importance and weight must be attached to the harm identified. No public benefit has been identified which would outweigh the harm that would be caused by the proposal.
14. I conclude, therefore, that the advertisement would have a harmful effect on the visual amenity of the area. The Regulations seek to control advertisements in the interests of amenity and public safety. The Council has drawn attention to policies as material considerations. These have not been decisive, but the proposal would not meet with the objectives of the National Planning Policy Framework, Policies 7.4 (Local Character), 7.6 (Architecture) and 7.8 (Heritage Assets and Archaeology) of the London Plan 2016, policies CS24 (Design) and CS25 (Historic Environment) of Hackney's Local Development Framework Core Strategy, Hackney's Strategic Planning Policies for 2010-2025 (2010) (the 'CS'); and policies DM1 (High Quality Design), DM28 (Managing the Historic Environment) and DM29 (Advertisements) of Hackney's Local Plan, Development Management Local Plan (2015) (the 'LP') which seek amongst other things to ensure that development would not adversely affect the historic significance of buildings, and be sensitive to the character of an area through size and siting.

Public and Highway safety

15. The display would be located on Kingsland Road and would first become visible to drivers on approach from the south. On the approach to the display, drivers have to negotiate two priority junctions on Kingsland Road, namely, Whiston Road and Laburnum Street where there is a signalised controlled pedestrian crossing within 10 metres of the proposed display. This is right next to the Suleymaniye Mosque which generates a large volume of pedestrian traffic on most days, as observed during my visit to the site.
16. The appellant contends that drivers would be able to glance at advertisements without distraction from road or traffic movements. However, the digital display of the proposed advertising is by its very nature designed to grab the attention of passers-by whether they be drivers or pedestrians. Drivers are likely to be distracted in trying to figure out the advertising content as they approach, and the changing sequence is likely to draw more focus. Furthermore, they argue that the 10 second timing is an industry standard and is considered acceptable for urban locations where traffic is limited to below 40 miles per hour. However, a car travelling at that speed is likely to cause serious injury to pedestrians and there is no evidence to substantiate the appellant's assurance of public safety. Thus, the proposed illuminated 48-sheet digital advertisement display is likely to have a negative effect on public and highway safety along this section of Kingsland Road.
17. I conclude, therefore, that the advertisement would have a harmful effect on public safety. Whilst not decisive, the proposal would not meet with the objectives of the National Planning Policy Framework nor Policies 6.3 (Assessing the effect of development on transport capacity), 6.9 (Cycling) and 6.10 (Walking) of the London Plan 2016, and policies DM29 (Advertisements), DM45 (Development and Transport) and DM46 (Walking and Cycling) of the LP which seek amongst other things to ensure that new development have no adverse impact on public and highway safety.

Conclusion and Recommendation

18. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Ifeanyi Chukwujekwu

APPEALS PLANNING OFFICER

Inspector's Decision

19. I have considered all the submitted evidence and the Appeal Planning Officer's report, and on that basis, I agree that the appeal should be dismissed.

Chris Preston

INSPECTOR