

Appeal Decision

Site visit made on 7 September 2021 by M Long

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2021

Appeal Ref: APP/U5360/Z/21/3274623

129-135 Mare Street, Hackney, London E8 3RH

- 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 Daylite LED Media Ltd against the decision of the London Borough of Hackney.
 - The application Ref 2021/0312, dated 2 February 2021, was refused by notice dated 14 April 2021.
 - The advertisement proposed is described as "the replacement of an existing freestanding advertisement with a new LED digital advertisement display of a smaller size."
-

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.

Procedural Matter

3. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (Framework). In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework and I am satisfied that no party would be disadvantaged by my reference to the revised Framework.
4. The Town and Country Planning (Control of Advertisement) (England) Regulations 2007 (as amended) set out that powers under those Regulations shall be exercised in the interests 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.
5. The Planning Practice Guidance sets out that in practice, 'amenity' is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement, and the local characteristics of the neighbourhood should always be considered. The National Planning Policy Framework sets out that the quality and character of places can suffer when advertisements are poorly sited and designed.

Main Issues

6. The main issues are the effect of the proposed advertisement on the visual amenity of the area and on public safety.

Reasons for the Recommendation

Visual Amenity

7. The appeal site is located on the western side of Mare Street, a busy commercial road within the Mare Street Conservation Area, where special attention must be paid to the desirability of preserving or enhancing the character and appearance of the area. The appeal site is an open-sided industrial building that is situated between a large scale building to the south and a locally listed public house building to the north. The surrounding area has a primarily commercial character and a large volume of pedestrians and traffic move past the appeal site. It is understood that consent was given for a 48-sheet illuminated advertisement which was previously installed at this location, although it has since been removed from the site.
8. The proposal is an LED digital display that would be able to show changing static images. It would be positioned at a significant height and would be in close proximity to the stone quoins of the public house to the north. In comparison to the advertisement previously installed at the site, the display would have a smaller and slimmer display and would be orientated more directly towards vehicles and pedestrians approaching from the south. The proposal also includes a new boundary fence at the site which would provide some screening for the industrial building behind.
9. While the proposed display would have a reduced size in comparison to the advertisement that was previously installed at this site, the proposed elevated height and orientation towards approaching traffic would appear overly dominant within the Mare Street streetscene. Despite the surrounding large scale buildings and commercial character of the area, the proposal's prominence would have an uncomfortable arrangement with the flank wall of the locally listed building to the north. Its close proximity to the building's stone quoins would detract attention from its historic appearance.
10. The proposed improvements to the boundary fence would offer limited visual amenity benefits to the surrounding area, however this would not outweigh the harm that would arise from the proposed display's prominent positioning and orientation within the Mare Street streetscene.
11. Given the above, the proposed advertisement would result in substantial harm to the visual amenity of the area. As such, it would be contrary to the Hackney Local Plan 2033 (adopted July 2020), specifically Policy LP7 which seeks to prevent advertisements that detract from the amenity of the streetscene. There would also be conflict with Policy LP1 which seeks to ensure development responds to local character and context; Policy LP3 which seeks to ensure development in conservation areas preserves or enhances the established local character of individual buildings; and Policy LP4 which seeks to ensure development reveals the significance of non-designated heritage assets and their settings. There would be further conflict with The London Plan (adopted March 2021), specifically Policy HC1 which requires development proposals to be sympathetic to a heritage asset's significance. Although the Council mention

conflict with Policy D4 within their reasons for refusal, this Policy is strategic in nature and focuses on the design process and scrutiny, it does not appear to be directly relevant to the modest nature of the appeal scheme.

Public Safety

12. The appeal site is located along a busy highway between Mare Street's junctions with Warburton Road and Westgate Street and is in close proximity to an existing bus stop. Upon my visit to the site, I noted a large volume of vehicles, cyclists and pedestrians moving through this section of Mare Street. I observed buses regularly pulling in and out of the bus stop as well as a number of pedestrians using informal crossing points around the bus stop.
13. The prominent positioning of the proposed display would present a harmful distraction along a stretch of highway that is characterised by substantial vehicle flow and pedestrian crossings. The appellant has stated that the previous advertisement at this site has not been directly linked to any public safety issues. However, the appeal scheme has a significantly different height and orientation that would increase its prominence within an approaching driver's field of vision and would result in a potentially dangerous distraction in an area where pedestrians are likely to cross close to parked buses. Moreover, the changing imagery of the LED display would present a further distraction that could not be sufficiently mitigated through the use of conditions.
14. The appellant has referred to Transport for London's Guidance for Digital Advertising and Proposed Best Practice which states that static digital advertising is likely to be acceptable in locations where static advertisements exist. However, there is currently no existing advertisement at this location and the proposed display would be significantly different to the advertisement that was previously installed at this site. In any event, each appeal must be determined on its own individual merits.
15. Although the Council's case in respect of the impact on public safety is limited in detail, it is nevertheless clear that the primary concern relates to the digital nature of the advertisement and its close proximity to an adjacent bus stop and busy highway.
16. For these reasons, the proposed display would result in substantial harm to public safety. As such, it would be contrary to Policy LP2 of the Hackney Local Plan 2033, which seeks to ensure new development has no significant adverse impact on amenity, including the safety of highway users. There would also be conflict with Policy D8 of The London Plan which seeks development proposals that ensure a well-designed and safe public realm. Although in the second reason for refusal reference was made to Policy LP7 of the Hackney Local Plan 2033, this Policy does not directly address matters of public safety and is not considered relevant to this issue.

Other Matters

17. The appellant has suggested a number of environmental and economic benefits that would arise from the installation of the proposed display, including meeting a demand for this type of commercial advertising within this area. However, the benefits arising from a single advertisement, such as the scheme proposed, would not outweigh the significant harm to amenity and public safety identified above.

18. The appellant has expressed a willingness to accept conditions that would further restrict luminance and the frequency of advertisement imagery changes. These conditions would not, however, sufficiently mitigate the harm that arises from the proposed display's prominence within the streetscene.

Recommendation

19. For the reasons given above and having regard to all other matters raised, I recommend that the appeal is dismissed.

M Long

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

K Taylor

INSPECTOR