

Appeal Decision

Site visit made on 16 November 2021 by M Long

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2021

Appeal Ref: APP/C5690/Z/21/3278456

386 New Cross Road, London SE14 6AG

- 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 Lewisham.
 - The application Ref DC/21/121242, dated 8 April 2021, was refused by notice dated 3 June 2021.
 - The advertisement proposed is the replacement of an internally illuminated advertisement with a LED digital advertisement of the same size.
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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.

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 (PPG) 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 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 situated to the west of the junction between New Cross Road and Amersham Road, a busy area with surrounding residential and commercial uses. The site is the east-facing flank wall of an end-of-terrace property on the southern side of New Cross Road; the wall accommodates an existing advertisement positioned at first floor level. The submitted evidence indicates that there have been a number of hoardings at the site which have been non-digital and incapable of showing changing imagery. There are a variety of illuminated and non-illuminated advertisements in the surrounding area, however, there appears to be a limited number of digital advertisements.
8. Whilst amenity is not defined exhaustively within the Regulations, it does indicate that relevant factors include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The PPG states that in assessing amenity, local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, whether it is in scale and in keeping with these features.
9. The proposal is the installation of a digital display that would display changing static images at regular time intervals. The proposed display would be a similar size to pre-existing advertisements at this site, albeit slightly smaller and slimmer. The proposed advertisement would also be positioned higher on the flank wall than the existing advertisement and would be most visible to those approaching from the east along New Cross Road.
10. While this may be an established location for advertising, there are a limited number of digital advertisements in the area and so the proposed digital display would appear incongruous in this setting. The proposal's size and positioning would be similar to previous forms of advertising at this site however, by virtue of its digital illumination and ability to show changing static images, the proposed advertisement would be materially different. The frequent changing of images would attract greater attention and introduce a new form of advertising that is out of keeping with the character of the streetscene and detrimental to its visual amenity.
11. Concerns have been raised about the level of illumination and whether the proposed display would be overly bright in this location. However, the use of a condition to control luminance would be sufficient to ensure there was no harm to visual amenity in this regard. Nevertheless, this would not outweigh the harm that arises from introducing a new form of advertising to this area.
12. Although a previous appeal scheme for an advertisement at this site was found acceptable in terms of its effect on visual amenity, the full details of this case, including the drawings, are not before me. The submitted evidence indicates that the previous scheme included a considerably smaller advertisement and so was subject to different planning considerations than this appeal scheme.
13. Given the above, the proposal would result in harm to the visual amenity of the area. As such it would be contrary to the Development Management Local Plan, adopted November 2014, specifically DM Policy 30 which seeks to ensure all development proposals attain a high standard of design, including through

creating a positive relationship to the existing townscape. Although this Policy deals with detailed matters of design, some of which are not relevant to advertisements, its overarching aims remain relevant to this appeal scheme. DM Policy 27 seeks to protect local character and residential amenity from light pollution and nuisance, the appeal scheme would not conflict with this Policy, however the lack of conflict with this Policy would not outweigh the harm identified above. There would also be conflict with Policy D8 of The London Plan, adopted March 2021, which seeks to ensure development proposals are related to local context.

Public Safety

14. The appeal site is located close to the signalised junction at New Cross Road and Amersham Road. Upon my visit to the site, I observed a high volume of traffic and a large number of pedestrians using the nearby crossing points. The proposed display would be most visible to those approaching from the east along New Cross Road, it would be positioned directly in front on an area where vehicles turn the corner south onto Amersham Road and travel in two lanes. Close to the junction, on the eastern side of Amersham Road, there is a loading bay area which only becomes clearly visible to drivers as they turn the corner.
15. The prominent positioning and ability of the display to show changing static imagery would result in a potentially dangerous distraction to drivers as they approach the junction and turn onto Amersham Road. The advertisement would be designed to attract the attention of those nearby which would be inappropriate in an area that requires a significant level of concentration, for instance, relating to the traffic signals, pedestrian crossings, lane changes and the loading area. The appellant has expressed a willingness to increase the time intervals at which the image would change and, while this would decrease the frequency at which a driver could be potentially distracted, it would not minimise the harm to an acceptable level.
16. The proposed display would be of a substantial size to allow drivers approaching from the east to assimilate the advertisement within their field of vision before reaching the junction. However, this would not sufficiently mitigate the potentially dangerous distraction that could arise from the proposed changing images as a driver turns south onto Amersham Road.
17. The appellant has submitted a Highway Safety Report which provides detail relating to highway concerns at the appeal site, including the pedestrian environment and a review of accidents in the area. Although there may be no accidents directly linked to pre-existing advertisements at this site, the data relates to a non-digital advertisement incapable of showing changing static images and is not indicative of the proposed scheme. Evidence relating to sites with digital displays that show changing imagery would have been scrutinised with regard to public safety and found appropriate in their context. This evidence can not necessarily be applied to any and all sites for future advertising.
18. The appellant has referred to Transport for London's Guidance for Digital Roadside Advertising and Proposed Best Practice 2013 which states that static digital advertising is likely to be acceptable in locations where static advertisement exists. However, the proposed display would introduce a new form of digital advertising to this area, including the ability to show changing

static images which is not an established characteristic in this location. In any event, each appeal must be determined on its own individual planning merits.

19. Although the Council's case in respect to the impact on public safety is limited in detail, it is nevertheless clear that their primary concerns relate to the proposal resulting in potentially dangerous distractions in an area characterised by a high volume of traffic.
20. For the reasons above, the proposal would result in harm to public safety. Although not decisive in the determination of this appeal, it would therefore be contrary to DM Policy 35 of the Development Management Local Plan which seeks to ensure that public spaces are designed to be safe. While much of this Policy deals with issues not relating to advertisements, given that the display negatively impacts on the highway, which is a public space, the proposal would not accord with the overarching aim of this Policy. There would also be conflict with the aims of the National Planning Policy Framework, which seeks to resist proposals that would have an unacceptable impact on public safety.

Other Matters

21. The appellant has stated a number of environmental and economic benefits that would arise from the installation of the proposed display. However, the benefits arising from a single advertisement, such as the appeal scheme, would not outweigh the significant harm to visual amenity and public safety identified above.

Recommendation

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

M Long

APPEAL PLANNING OFFICER

Inspector's Decision

23. 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