

Appeal Decision

Site visit made on 23 February 2022 by M Long

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2022

Appeal Ref: APP/U5360/Z/21/3286592

159-161 Shoreditch High Street, Hackney, London E1 6HU

- 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 Smith (City Outdoor Media Ltd) against the decision of The London Borough of Hackney.
 - The application Ref 2021/2077, dated 5 July 2021, was refused by notice dated 17 September 2021.
 - The advertisement proposed is the erection of 1no externally illuminated advertisement wrap.
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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 Matters

3. The Town and Country Planning (Control of Advertisements) (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.

Main Issue

4. The Council has concluded that the advertisement would be acceptable in terms of public safety, and I have no reason to disagree. Therefore, the main issue is the effect of the proposal on the visual amenity of the area.

Reasons for the Recommendation

5. The appeal site is located in the South Shoreditch Conservation Area, where special attention must be paid to the desirability of preserving or enhancing the character or appearance of the area. The site relates to the southern elevation of Boundary House, a tall vacant building on the western side of Shoreditch High Street. This blank brick elevation faces onto a surface car park and is considerably covered by graffiti, most of which is concentrated at ground floor level. Boundary House has very large, illuminated advertisements on its northern and eastern elevations as well as a large digital display on its north-eastern elevation. The surrounding area has a largely commercial character

and a high volume of pedestrians and traffic passing the site. I observed that large, high-level and illuminated advertisements form part of the character of this location. This includes a large digital display on the eastern boundary of the car park, a high-level digital display installed on the building on the opposite side of Shoreditch High Street, as well as smaller-scale displays erected on both the western and eastern pavements and nearby bus shelter.

6. 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 (the Framework) sets out that the quality and character of places can suffer when advertisements are poorly sited and designed.
7. The proposal is a very large, illuminated advertisement wrap that would be installed on the southern elevation of Boundary House; it would be most visible to those approaching from the south. It would be positioned above the ground floor level and extend close to the roofline. The advertisement would be illuminated by external lights that would project out from the banner face.
8. The existing large scale advertisements at Boundary House are orientated towards the street, and the display on the northern elevation is somewhat screened by the adjacent building. In contrast, the proposal's positioning on the southern elevation would have a more prominent orientation to those approaching from the south and would be highly visible above the surface car park. While the curve in the highway and tall buildings on its western side would prevent long distance views, due to the proposal's size, orientation and unobstructed position above the car park area, it would be an obtrusive feature in its immediate area. Although illuminated advertisements form part of the character of advertising at this site, in this instance, the lighting would further exacerbate the proposal's overly prominent design.
9. The Framework advises that cumulative impacts of advertisements should be taken into account. The wrap, in combination with the surrounding advertisements, would appear as an obtrusive amount of large scale advertising in the streetscene. Moreover, at points along Shoreditch High Street, the digital display at the car park's boundary would be directly in the line of sight with the proposal behind, which would further appear as an excessive amount of advertising at this location. While the harm arising from the cumulative impact of the advertisements was raised in the officer report and not directly in the decision notice, the appellant has had the opportunity to respond to this issue at the appeal stage.
10. The introduction of a very large, high-level and illuminated advertisement to a long-established blank brick wall would not preserve the character and appearance of this part of the Conservation Area. The Shopfront Design Guide Supplementary Planning Guidance states that a proposal's design must contribute positively to the neighbouring buildings and streetscene, as such the scheme would conflict with the overarching aims of this document.
11. It appears there are economic circumstances delaying the refurbishment of the site. However, given that the scheme would result in harm to visual amenity rather than improving the appearance of the building, in itself this matter does not carry any substantive weight.

12. The appellant has referred to case law¹ relating to consistency in decision-making and has submitted documents pertaining to a number of advertisement consents granted by the Council² and allowed at appeal³. Given the above and considering the proposal on its own individual merits and impacts on visual amenity, including the cumulative impact of large scale advertising in this area, the scheme would be different to the other cited decisions. As such, dismissing this appeal would not, in my view, result in an unreasonable lack of consistency in decision-making.
13. Mechanisms to secure the removal of graffiti at the site, as well as its ongoing management, have been suggested. However, given that the graffiti is largely concentrated below the proposed positioning of the wrap, the link between its necessary removal and allowing the advertisement is tenuous. Even if the benefits of removing the graffiti in the long-term were taken into account, these would not outweigh the harm to visual amenity that would arise from the proposal's overall scale and cumulative impact.
14. Given the above, the proposal would result in harm to the visual amenity of the area. 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. It would also be contrary to Policy LP1 which seeks to ensure development that is compatible with the existing townscape and Policy LP3 which seeks to ensure development proposals affecting conservation areas preserve or enhance the character and appearance of the area. There would be further conflict with The London Plan, adopted March 2021, specifically Policy HC1 which seeks to ensure that development proposals affecting heritage assets conserve their significance. Although the Council have mentioned conflict with Policy D4, this Policy is primarily strategic in nature and focuses on the design process and scrutiny, it does not appear to be directly relevant to the nature of the appeal scheme.

Other Matters

15. Concerns have been raised over the Council's communication and processing of the case, particularly relating to a lack of opportunity to address issues. Nevertheless, this issue is not related to the specific planning merits of the appeal scheme, which must be the focus of this recommendation.

Recommendation

16. 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

17. 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

¹ North Wiltshire District Council v SSE [1992] 3 PLR 113 and *DLA Delivery Ltd v (1) Baroness Cumberledge of Newick; (2) Patrick Cumberledge & SSCLG* [2018] EWCA Civ 1305

² LPA ref: 2017/1370, LPA ref: 2017/0416 and LPA ref: 2017/0380

³ APP/U5360/Z/15/3053046, APP/U5360/Z/15/3004079, APP/U5360/16/3153181, APP/U5360/Z/16/3162368 and APP/U5360/H/18/3203651