



Appeal Decision

Site visit made on 18 August 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st September 2022

Appeal Ref: APP/U5360/Z/20/3261703

28 Upper Clapton Road, London, E5 8BQ

- 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 Richard Wilson (Clear Channel UK Ltd) against the decision of the London Borough of Hackney Council.
 - The application Ref 2020/1943 dated 30 June 2020, was refused by notice dated 26 August 2020.
 - The advertisement proposed is 3m (H) x 6m (W) (48 sheet) internally illuminated digital advertisement display, wall mounted.
-

Decision

1. The appeal is allowed and express consent is granted for the display of the 3m (H) x 6m (W) (48 sheet) internally illuminated digital advertisement display, wall mounted as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:-
 - 1) Following five years the advertisement and all fixtures and fittings shall be removed from the site in their entirety;
 - 2) The advertisement will be utilised for static digital advertising only, in sequence, changing no more frequently than every 10 seconds via smooth fade;
 - 3) During periods of darkness, the display illumination will not exceed a maximum brightness of 300 cd/sq.m.

Procedural Matters

2. Since the determination of this application the London Plan 2016 has been replaced by the London Plan 2021 (LDN) which was adopted in March 2021. As a result of this both parties have been given the opportunity to comment upon the impact of these changes upon this appeal. No comments were received.
3. The appellant confirms that, due to the time which has passed, that the displays utilised have evolved and the display depth would now be 269mm instead of 250mm. All other dimensions are the same. I do not find this is a material difference (19mm) that would prejudice any interested parties as a result of acceptance of this updated depth within the consideration of the appeal before me. The express granted is therefore for an advertisement of this depth, not the 250mm originally applied for.

Main Issue

4. The main issue is the impact of the proposal upon the visual amenity, character and appearance of the host building and the surrounding area.

Reasons

5. The appeal site is a four-storey building with a mansard roof, in residential use, located a short distance off a busy roundabout, which doubles as a public transport interchange, off Upper Clapton Road. The advertisement itself would be on the Prout Road facing wall of the site. At the time of my site visit I noted, and from the submissions it is confirmed, that there is an existing advertisement on site. This existing display has a depth of 600mm, the proposal before me (as noted in procedural matters above), would be 269mm in depth. Whilst I note the existing display in place, the appeal before me is not made to determine whether or not the existing advertisement benefits from deemed consent, it is an advertisement consent to be determined as set out.
6. With this type of proposal it falls to consider the proposed advertisement in the interests of amenity and public safety taking into account the provisions of the development plans, as far as they are material. The refusal reason before me does not raise any basis for concern over public safety or traffic considerations and I have no evidence before me, subject to conditions, to conclude differently on this point. The refusal reason is therefore based upon amenity.
7. Amenity is not realistically defined in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the regulations) but is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement. This can include local characteristics and whether the proposal is in scale and in keeping with these features. The proposal would display static advertising images in sequence, changing no more frequently than every 10 seconds, the change being via smooth fade. It would not contain any movement, animation or flashing lights.
8. At the time of my site visit I noted that the appeal site is within an area which is varied in both character and appearance. The site is not within a Conservation Area and there are no listed buildings within the vicinity of the appeal site. Conservation, Urban Design and Sustainability (CUDS) has noted the site as being within the setting of a locally listed building, however, no further information or evidence has been provided in that regard in order to allow me to take into account within this assessment. I have no evidence before me to support that the proposal would adversely affect the historic significance of buildings or that it is within an area of historic significance as is one of the requirements of Hackney Local Plan 2020 (LP33) Policy LP7 for advertisements.
9. The area is in mixed use with commercial, retail, residential and educational uses being within close proximity of each other and where I also noted varied forms and sizes of outdoor advertising being characteristic of the busy area. The appeal site locality is therefore predominantly commercial in character and appearance, and this character and appearance is notably influenced by the infrastructure and associated activity taking place on the four-lane main highway that is Upper Clapton Road adjacent to the appeal site.

10. National Planning Practice Guidance recognises that large poster hoardings are often permitted in industrial or commercial areas of major cities, where there are large buildings and main highways, where the advertisement would not adversely affect the visual amenity of the neighbourhood. I find that the appeal site would therefore be appropriate, in terms of siting, for large format advertising as proposed. The advertisement would cover approximately 14% of the flank elevation (the front section painted white) which I find would be appropriate size and scale for the host building with a suitable depth of 269mm which the appellant explains is as a result of the evolution of displays since application.
11. I find that in considering the overall effect of the proposal it would be of an appropriate scale, design and siting. I do not find the proposal would be obtrusive or adversely affect the visual amenity, character and appearance of the host building or the surrounding area. The proposal would be acceptable in terms of amenity and public safety matters. The proposal would be consistent with LP33 Policy LP1 which seeks to ensure developments provide good and optimum arrangement of the site in terms of form, mass and scale as well as identify with and respect the architectural quality and character of the surrounding environment.
12. The proposal would also be consistent with the objectives of LP33 Policy LP7 which seeks to ensure proposals do not contribute to an unsightly proliferation or clutter of signage in the local area and detract from the amenity of the street scene; cause a physical obstruction to the public realm; and cause visual intrusion by virtue of light pollution into adjoining residential properties; and avoid flashing internal or external illumination.

Other Matters

13. I note that Conservation, Urban Design and Sustainability (CUDS) have objected to the proposal on the basis that it has potential to be too bright, moving and/or flashing as well as having negative impact upon residential amenity. The proposal has been confirmed as not containing any movement, animation or flashing lights. Transport for London (TfL) have raised no objection subject to conditions which include conditions regarding frequency of image change, maximum luminance and that the display must not have any intermittent light source, moving feature, animation or exposed cold cathode tubing. I find that a suitably worded condition would overcome the concerns raised by CUDS in accordance with guidance prepared by the Institute of Lighting Professionals (copies of which have been submitted by the appellant as part of this appeal).
14. The Council's report states that the proposal may cause visual intrusion by virtue of light pollution into adjoining residential properties, however, this has not been stated as a refusal reason within the decision notice. Within the assessment of residential amenity this concern is raised but it is confirmed that an appropriate condition regarding illumination levels should be included. I am satisfied that a condition of this nature, relating to illumination and static imagery, would prevent unacceptable impact to surrounding residential uses.
15. The Council's refusal reason references the Hackney Shopfront Design Guide (SPD); however, the delegated report contains no assessment against this guidance with the appellant outlining the guidance as of limited relevance to the site before me. In addition the Council have failed to provide a copy of the

SPD within their appeal submissions which restricts my ability to take it into account. Similarly the Council's conclusion states conflict with LP33 Policy LP3 but this has not been assessed within the body of the report or carried through to the refusal reason. I have not, therefore, had regard for the SPD or LP33 Policy LP3 within my assessment on this occasion.

Conditions

16. The Council have suggested an additional condition to the five standard conditions set out within Schedule 2 of the regulations. This condition would require removal of the advertisement and all fixtures and fittings within a specified time period. In this case the application form confirms that consent was sought for a total of five years. I have applied this condition and consider it necessary that the proposal is removed after this time has expired and for the avoidance of doubt.
17. I have applied a condition confirming that the proposal can only be utilised for static digital advertising only, as applied for, for the avoidance of doubt taking into account the consultation response from TfL in order to ensure there is no impact upon public safety.
18. I have applied a condition restricting illumination levels during the hours of darkness to ensure no inappropriate impact upon residential amenity as a result of brightness or glare. This will also ensure the proposal is managed in accordance with recommendations within the authority document addressing the brightness of illuminated advertisements, namely 'The Brightness of Illuminated Advertisements' PLG05, 2015 issued by the Institute of Lighting Professionals (or any subsequent industry guidance as amended).

Conclusion

19. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to conditions.

Eleni Randle

INSPECTOR