



Appeal Decision

Site visit made on 8 September 2022

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15th September 2022

Appeal Ref: APP/Z5060/Z/22/3291713

Thatched House, Ripple Road, Barking, IG11 9PG

- 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 Toby Pullen on behalf of H Company 5 Limited against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref 21/02067/ADVERT, dated 13 November 2021, was refused by notice dated 21 December 2021.
 - The advertisement proposed is for 2 x digital 48 sheet panels on a monopole replacing 1 x 48 sheet backlight panel.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. In their decision notice the Council has referred to policy DMD7 of the London Borough of Barking & Dagenham's Draft Local Plan (Regulation 19 Submission Version, 2020). Whilst this document has been superseded by the London Borough of Barking & Dagenham's Draft Local Plan (Regulation 19 Submission Version, Autumn 2021), (Draft LP), policy DMD7 has remained unchanged. As such it has not affected the consideration of this appeal.
3. The appellant has stated that the council has incorrectly stated that the proposed advertisement panels are larger than the existing panel. Also, that their level of illuminance would be greater than that of the existing approved advertisement panel. The proposed advertisement panels are slightly smaller than the existing and their level of illuminance is half that of the existing approved advertisement panel. The appeal has been determined on this basis.

Main Issue

4. The main issue is the effect of the proposal on public safety.

Reasons

5. The appeal site is located adjacent to the southern boundary of a public house, that is situated within an established commercial area. The southern boundary of the public house site faces towards a pavement, a busy slip road off the A13, with the start of the A13 Alfreds Way flyover immediately beyond.

6. Currently there is a single internally illuminated advertisement panel on the appeal site, which faces east along the slip road and towards the A13 flyover. As such the advertisements displayed are not seen by motorists exiting the A13.
7. Paragraph 136 of the National Planning Policy Framework (Framework) explains that advertisement applications should only be subject to control in the interests of amenity and public safety, taking account of cumulative impacts. Together and amongst other things Policy D8 of The London Plan, policy CP3 of the Barking & Dagenham Local Development Framework (LDF) Core strategy (CS), and policy BP7 of the LDF Borough Wide Development Plan Document (DPD), seek to ensure that the public realm is well designed and safe. Advertisement lighting should ensure that there is minimal intrusive lighting within the public realm. Advertisements should not negatively impact on public safety and will be refused where they compromise public safety.
8. Draft LP Policy DMD7 is consistent with this. It states that advertisements should not have a negative impact on public safety and should be designed for public safety, relevant to the safe use and operation of any form of traffic or transportation. The council has also referred to paragraph 134 of the Framework. However, I feel that it is of limited relevance to this appeal, as no concerns have been raised to the design of the proposal.
9. The proposed advertisement panels would be identical and would be fixed to a shared monopole. The advertisement panels would be just over 6 metres wide and three metres high. The council has confirmed that they would project some 6.58 metres above the existing ground level and the application form confirms that their illuminance levels would be 300 cd/m². The panels would be orientated towards both westbound and east bound traffic. By comparison the existing advertisement panel, which is slightly larger than the proposed advertisement panels is orientated east along the slip road. It sits at a lower level to the proposed replacement advertisement panels and, as stated by the appellant, has an approved illuminance level of 600 cd/m².
10. As a result of these factors the proposed east facing advertisement panel would be more visible from the A13 due to its increased elevation, although its illuminance would be lower. For this reason, I find that the impact of the proposed east facing advertisement panel would not have a materially adverse impact on amenity or public safety.
11. Conversely, the proposed west facing advertisement display panel would be prominent in views from the slip road and the A13 to the west. This includes from where the slip road separates from the A13. It would be positioned a short distance to the west of a vehicular entrance to an industrial site, where a number of advertisements relating to the premises are displayed. It would also be located close to the start of a bus lane, which leads to a bus stop. This bus stop is situated just before a service access to a petrol filling station, with the junction of the slip road with the A123 and A1153 a short distance beyond. There are also a number of small highway signs in the vicinity of the proposed advertisement panels, which relate to speed restrictions, the cycle network, the bus lane and bus stop.
12. For these reasons the proposed west facing advertisement panel would add to the clutter of advertisements, signs and highway infrastructure in the vicinity of the slip road and the flyover. This would not have a materially harmful impact

on amenity due to the siting of the proposed advertisement panel within a commercial area and adjacent to a slip road and flyover. However, not only would it add to the level of signage and advertisements in the immediate area, due to its combined size, height and internal illumination the proposed west facing advertisement panel could distract drivers both within the slip road and on the flyover.

13. Given the busy nature of the highway network at this point the proposed west facing advertisement panel would have an unacceptable impact on highway safety. It would compromise and have a negative impact on public safety, relevant to the safe use and operation of any form of traffic or transportation. This harm is not something that could satisfactorily be addressed by the imposition of conditions.
14. As pointed out by the appellant, Transport for London did not comment on the merits of the application prior to its determination by the council. However, they did subsequently confirm their support of the reason for refusal on road safety grounds. In addition, the council's own Transport Officer was consulted and they were not satisfied, on the basis of the information submitted, that the proposal would not have an adverse impact on the highway.
15. I conclude on the main issue the proposed west facing two sided internally illuminated panel advertisement would have an unacceptable impact on public safety. It would be contrary to The London Plan Policy D8, CS Policy CP3, DPD & Dagenham Local Development Framework (LDF) Core strategy (CS), Draft LP Policy BP7 and paragraph 136 of the Framework. Conversely the proposed east facing advertisement panel would not compromise highway safety and so would comply with the above policies.

Other matter

16. In addition to the factual matters addressed in this decision, the appellant has raised a number of concerns relating to the councils handling of the appeal application. Such concerns are not material to the planning merits of the appeal proposal, but are a matter that could be taken up with the council.

Conclusion

17. Whilst no concerns have been found in relation to amenity, or public safety in relation to the proposed east facing advertisement panel, the public safety concerns relating to the proposed west facing advertisement panel amount to a compelling reason for dismissing this appeal.

Elizabeth Lawrence

INSPECTOR