The Planning Inspectorate

Appeal Decision

Site visit made on 4 April 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th May 2023

Appeal Ref: APP/P5870/H/21/3286347
Footpath Alongside Reigate Avenue, Sutton SM1 3JL

- 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 Ms Bella Noakes of British Telecom Plc against the decision of the Council of the London Borough of Sutton.
- The application Ref DM2021/01474, dated 5 July 2021, was refused by notice dated 10 September 2021.
- The advertisement proposed is two digital 75 inch LCD display screen, one on each side of the amended InLink unit

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007, the National Planning Policy Framework and the national Planning Practice Guidance confirm that advertisements should be subject to control only in the interests of amenity and public safety. Regard does not need to be had to the development plan. I have taken relevant policies into account as a material consideration; however, they have not, by themselves, been determinative for this appeal.

3. The Council's reason for refusal relates to public safety only and therefore amenity is not a main issue for this appeal.

4. The appellant's appeal statement refers to a planning appeal for the same site. However, the planning appeal is not before me for determination.

5. As there is no postcode on the application form or decision notice, I have taken the postcode from the appeal questionnaire, which corresponds with the incomplete postcode set out on the appellant's statement.

Main Issue

6. The main issue is the effect of the proposed advertisements on public safety.

Reasons

7. The proposal is for 2 digital 75 inch screens that would be positioned on either side of a Street Hub and would be sited near to a busy signalised junction on the A217. The A217 is a dual carriageway, which has a 40mph speed limit. On

either side of the A217 is a wide pavement, which contains a footway and a 2 way cycle path.

8. The proposed illuminated, static changing advertisements would attract the attention of drivers approaching and passing through the junction. This could result in a potentially dangerous distraction in an area where drivers need to be alert to the traffic signals, vehicles changing lanes and pedestrians and cyclists crossing. The proposal could also cause a distraction to drivers navigating the bend at this busy junction. Consequently, the proposal could be harmful to the public safety of motorists, cyclists and pedestrians.

9. The proposal would replace an existing phone box, which has an affixed poster advertisement on its south-east facing side. This advertisement does not face oncoming traffic, it is also non-illuminated and the imagery does not change. As a result, it is not directly comparable to the appeal scheme. With the exception of the existing phone box, I noted no other advertisements in such close proximity to this part of the A217. Digital advertisements were also not a feature within the immediate locality.

10. Transport for London raise concerns that the proposed advertisements could cause an obstruction to pedestrians using the footway, especially the visually impaired. The proposed advertisements would be sited on an area of hardstanding adjacent to the pavement and would not encroach on the footway or area of tactile paving. Consequently, the proposed advertisements would not cause an obstruction that could harm pedestrian safety.

11. Although the appellant alleges that the level of illumination and change rate would accord with the Institute of Professional Lighting standards, this would not overcome my concerns relating to public safety.

12. Overall, I conclude that the proposed advertisements would result in harm to public safety. Although not determinative, I have had regard to Policy 36 of the Sutton Local Plan 2016-2031, adopted in 2018 and Policy T4 of The London Plan 2021. These are of relevance insofar as they require proposals to be located to minimise any adverse impact on the highway network and not increase road danger. Given I have concluded that the proposal is harmful to public safety, it also conflicts with development plan policies.

Other Matters

13. The appellant refers to the social and economic benefits of the proposal, including improvements to the public realm, ultrafast public and encrypted Wi-Fi, free calls to emergency services, public information, USB ports for rapid device charging, environmental monitoring, expanded phone network coverage with 5G mobile enablement and free Council advertising. These benefits would be supported by the advertising revenue. The Street Hubs would also be powered by 100% renewable energy. As this is an advertisement consent appeal, the Regulations require that I exercise my powers with regard to amenity and public safety only. The proposed benefits therefore cannot be taken into account in my decision. Nevertheless, there is no mechanism before me for securing some of the benefits, including the free advertising.

14. The appellant has drawn my attention to similar schemes that have been allowed on appeal. The full details of these schemes have not been submitted; however, there are material differences in comparison to the current appeal

proposal, including amongst other things, the siting and characteristics of the locality. As a result, these schemes are not directly comparable. In any event, I am required to reach conclusions based on the individual circumstances of this appeal.

15. In respect to the conduct and procedures of the Council, this is not a matter that has affected my findings on the main issue.

Conclusion

16. For the reasons given above, I conclude that the proposed advertisements would be detrimental to public safety. The appeal is therefore dismissed.

A James

INSPECTOR