



Appeal Decision

Site visit made on 6 March 2023

by I Jenkins BSC CENG MICE MCIWEM

an Inspector appointed by the Secretary of State

Decision date: 05 June 2023

Appeal Ref: APP/U5360/Z/22/3300092

44 Lower Clapton Road, Hackney, London, E5 0RN

- 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 Wildstone Group against the decision of London Borough of Hackney.
 - The application Ref 2022/0279, dated 3 February 2022, was refused by notice dated 4 April 2022.
 - The advertisement proposed is described as upgrade of existing 48-sheet advert to support digital poster.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The advertisement proposed is described on the *Application for Consent form* as 'upgrade of existing 48-sheet advert to support digital poster' and this is reflected in the summary information above. I have also taken account of the more detailed description used in the Council's *Decision Notice* and appellant's *Grounds of Appeal*, which is 'display of digital internally illuminated advertisement on flank elevation of building fronting Median Road (Replacement of existing advertisement)'.

Main Issue

3. The *National Planning Policy Framework* (the Framework) indicates that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. The Council has indicated that the height, at first/second floor level, and location of the proposed advertisement would be such that it would be unlikely to give rise to any significant public safety concerns with regards to pedestrians or road traffic. I have no reason to take a different view.
4. Against this background, I consider that the main issues in this case, which relate to the interests of amenity, are the effect of the proposal on: the living conditions of neighbouring residents; and, the appearance of the Clapton Square Conservation Area.

Reasons

5. No. 44 is a 3-storey building which occupies a corner site at the junction of Lower Clapton Road and Median Road. A 48-sheet paper and paste billboard, which I understand benefits from deemed consent, is mounted at first/second floor level on the Median Road elevation of the building. The appellant has

indicated that the existing billboard is capable of internal illumination and I saw that at night nearby street lights also contribute to local lighting levels.

6. The proposal involves replacing the existing billboard with a digital poster (D-Poster) of a similar size, around 6 metres wide by 3 metres high and 0.06 metres deep. The appellant has indicated that the level of illumination of the proposed digital advertisement would be adjusted to be comparable with that of the existing billboard and would be consistent with the guidelines set by the Institution of Lighting Professionals. However, whilst only static images would be displayed, the D-Poster would be capable of displaying multiple static advertisements on rotation, changing display at a maximum frequency of every 10 seconds. The *Application for Consent* indicates that consent is sought for the period 31 March 2022 to 31 March 2027.
7. The Council has indicated that opposite No. 44, on the other side of Median Road, there are a number of windows serving residential property; a matter not disputed by the appellant. They are located above ground floor level and, to my mind, the existing billboard is likely to be a prominent feature of the views from those windows, being a relatively short distance away, and particularly at night, due to its internal illumination. The same can be said of the proposed D-poster. Furthermore, having regard to those factors and the capability of the proposed installation to frequently change display, I consider that its visual impact would be likely to be far greater than that of the existing billboard. For residents using the rooms served by the facing windows I have identified, the proposal would be obtrusive, causing substantial harm to their living conditions, with particular reference to outlook.
8. The sections of Lower Clapton Road and Median Road onto which No. 44 fronts fall within the Clapton Square Conservation Area (the Conservation Area). Section 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990* requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The *Clapton Square Conservation Area Appraisal, 2007*, indicates that Lower Clapton Road is 'mixed in character with some attractive properties, but some rather run-down buildings'. In the vicinity of No. 44 the Conservation Area predominantly comprises commercial units at ground floor level and I understand that there are some residential and office uses on the upper floors.
9. I acknowledge that the Clapton Conservation Areas Advisory Committee did not object to the appeal scheme. Nonetheless, typically, the ground floor commercial units have fascia signs, a number of which are illuminated at night, and there is street lighting. In that context, the illumination of the proposed D-Poster would not appear out of place. However, unlike the lower level existing illuminated signs I saw, the proposal would display multiple static advertisements which would rotate frequently. I consider that as a result it would have an obtrusive and discordant appearance, to the detriment of the appearance of the Conservation Area, albeit the harm to the significance of that designated heritage asset would be less than substantial. In these circumstances the Framework indicates that the harm to the significance of the designated heritage asset should be weighed against the public benefits of the scheme; a matter I return to below.
10. I conclude overall that the proposal would have a substantial adverse effect on amenity, including causing substantial harm to the living conditions of

neighbouring residents and harm to the appearance of the Conservation Area, albeit less than substantial harm to the significance of the Conservation Area as a designated heritage asset.

Other Matters

11. The appellant has drawn my attention to a previous appeal decision Ref. APP/X1118/Z/20/3265565. Whilst that appeal was allowed and it involved the upgrading of an advertisement with a digital display at a site within a Conservation Area, the Conservation Area was in North Devon. Furthermore, it was proposed that a second advertisement was to be removed and not replaced, which weighed in favour of the scheme. The circumstances are materially different from those in the case before me and so I consider that the previous appeal decision is of little relevance to my determination.
12. The appellant has indicated that a number of social, economic and environmental benefits would be associated with the appeal scheme. Insofar as there are such benefits the scheme would gain some support from the Framework. The appellant identifies, amongst other things, a reduction in CO₂ emissions currently associated with existing vehicle trips in the area to repost the billboard and the production of paper and paste posters. However, any such savings would be offset, at least in part, by the carbon costs associated with the production of the proposed display screen, which the appellant indicates would have a lifespan, on average, of only around 10 years. There is no compelling evidence before me to demonstrate that either those benefits or the others identified by the appellant would be significant. In my judgement, neither those nor any other matters raised would individually or cumulatively outweigh the harm that I have identified in relation to the main issues.
13. My attention has been drawn to *Hackney Local Plan 2033* Policies LP1 (Design Quality and Local Character), LP2 (Development and Amenity), LP3 (Designated Heritage Assets) and LP7 (Advertisements) as well as *London Plan 2021* Policy HC1. They are consistent with the aims of the Framework insofar as they seek, between them, to ensure that development responds to local character, preserves or enhances the significance of the historic environment and does not have a significant adverse impact on the amenity of neighbours. I have taken them into account as material considerations. With reference to my conclusions on the main issues, the proposal would not accord with these Policies. However, as I have indicated, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. Therefore, the identified policy conflicts have not, by themselves, been decisive.

Conclusion

14. Whilst the appeal scheme would be unlikely to harm public safety, it would cause unacceptable harm to amenity. I conclude overall, for the reasons given above, that the appeal should be dismissed.

I Jenkins

INSPECTOR