



Appeal Decision

Site visit made on 17 July 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/H5390/H/22/3307262

41 Scrubs Lane, London, NW10 6AA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a failure to give notice within the prescribed period of a decision on an application for express consent to display an advertisement.
 - The appeal is made by Mr Darwin Ramlal against the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref 2022/02019/ADV is dated 13 July 2022.
 - The advertisement proposed was originally described as advertising site to flank wall of 41 Scrubs Lane, London NW10 6AA.
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Decision

1. The appeal is dismissed, and express consent is refused.

Preliminary Matters

2. The appeal is against the non-determination of an application for express consent to display an advertisement. The Council's submission sets out that they would have refused the application. This is because they consider that the proposed advertisement would cause harm to the visual amenity of the area, and the adjacent St Mary's Conservation Area, would severely affect road safety and could cause damage to the open track and disrupt the TfL network.

Main Issues

3. The main issues are the effect of the proposed advertisement on:
 - The amenity of the surrounding area, having regard to the setting of St Mary's Conservation Area (CA); and
 - Public safety.

Reasons

Amenity

4. Planning Practice Guidance (PPG) advises that the local characteristics of an area should be considered when assessing amenity. The PPG provides further advice and is generally supportive of advertisements in an industrial or commercial area of a major city, where there are large buildings and main highways, and where the advertisement would not adversely affect visual amenity¹.

¹ Paragraph: 079 Reference ID: 18b-079-20140306

5. The appeal site comprises a three-storey end-of-terrace, located on the corner of Scrubs Lane and Waldo Road. The terrace makes a positive contribution to the area. Waldo Road is a residential street, and this part of Scrubs Lane is characterised by residential terraces. The wider surrounding area is mixed in character and includes residential terraces, railway lines, the busy A219 Scrubs Lane and commercial uses.
6. The boundary of the CA lies on the other side of the railway lines. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
7. Based on the evidence before me, the CA is characterised by Mary's Roman Catholic Cemetery, part of Kensal Green Cemetery, Alma Place (a small terrace of houses) and a terrace fronting Harrow Road. My attention has been drawn to an appeal decision at the appeal site². I agree with the Inspector's description of the appeal property and relationship between the property and the CA. Nonetheless, the development proposed is wholly different to that in the dismissed appeal, and I have determined the appeal on its own merits.
8. Within the surrounding area there are advertisements similar to that proposed, including opposite the front elevation of 41 Scrubs Lane, and also by 26A and 30 Scrubs Lane. I do not have full details of the circumstances that led to these proposals being accepted. At the time of my site visit the advertisement directly opposite the side elevation of No 41 had been removed.
9. The advertisements by Nos 26A and 30 relate to buildings with commercial uses to the ground floor by Cumberland Park business estate and office units. The advertisement opposite the front elevation of No 41 is adjacent to the railway bridge. These advertisements are situated on parts of Scrubs Lane that are less characterised by residential buildings than the appeal site. Therefore, whilst advertisements, such as that proposed, form part of the character of the area, the characteristics of the appeal site cannot be directly compared to the nearby displays and the presence of other advertisements nearby do not set a precedent.
10. The appellant highlights that the proposed screen advertisement would occupy approximately 40% of the top painted section of the end wall and 21% of the entire side elevation. I observed on my site visit that the painted section of the side elevation is more visually prominent and visible than the bricked ground floor section.
11. The painted section of the side elevation is widely visible when approaching from the south over the railway bridge. The proposal would introduce a large, high advertisement screen onto a residential building. Traditionally, side elevations of end of terrace Victorian houses were designed to be plainer, with less architectural decoration than the front elevations.
12. By virtue of the size, height, and siting of the advertisement, it would result in a prominent feature which would poorly relate to the host building and residential character of the immediate area. The illumination of the advertisement would further draw attention to the display. Consequently, the

² APP/H5390/W/21/3274638

advertisement would result in a dominant feature and would undermine the architectural appearance of the host building and the terrace as a whole when seen against the residential backdrop of this part of the locality.

13. There would be a reasonable distance between the advertisement and CA, but it would be visible from parts of the CA. Existing trees, vegetation, overhead lines, structures, and the contemporary dwellings located opposite the appeal site on Waldo Road would conceal views of the advertisement from a large proportion of the CA. Similar advertisements are also visible from the CA.
14. Even so, the display would appear as a visually discordant feature from the western side of the cemetery which contains a path leading to a pedestrian gateway to Scrubs Lane. Accordingly, it would cause harm on account of the effect on the setting and would fail to preserve or enhance the character and appearance of the CA. I therefore conclude that the appeal proposal would have a harmful effect on amenity and would be at odds with the residential character of this part of the street scene.
15. Conditions relating to illuminance and the display of advertisements could be imposed. Nonetheless, the advert would be a prominent feature and I am not satisfied that conditions would adequately overcome the harm found.
16. For the reasons given above, the proposed development (by virtue of its size, height, siting, and illumination) would cause harm to the character and appearance of the host building and surrounding area, including the setting of the nearby CA. The provisions of the development plan, so far as they are relevant, have been considered. Given I have concluded that the proposal would harm amenity, the proposal conflicts with the aims of Policies DC1, DC4, DC8 and DC9 of the Hammersmith and Fulham Local Plan (2018) (LP) and paragraph 136 of the National Planning Policy Framework (the Framework).

Public Safety

17. The PPG states that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety. For example, at junctions, roundabouts, pedestrian crossings, on the approach to a low bridge or level crossing or other places where local conditions present traffic hazards³.
18. The advertisement would be visible from Scrubs Lane (A219). This is a London Distributor Road which has the function to provide links to the strategic route network for short and medium distance traffic. The proposed advertisement screen would be an internally illuminated LED Screen which would display static images, and given the purpose of the advertising is intended to attract the attention of the road users.
19. A Highway Safety Report was submitted with the application. The report concludes that on review of the accident statistics in the vicinity of the proposal site, it is evident that there is no safety concern on this part of the transport network. The report states that the digital advertising display proposal will not conflict with highway safety in this location.
20. The report sets out that vehicles exiting from the access junctions for the Cumberland Park business estate and 24 Scrubs Lane office units will have the

³ Paragraph: 067 Reference ID: 18b-067-20140306

proposed digital advertising board behind southbound traffic that is passing over the crest of the railway bridge. The RSA Team were concerned that a driver may fail to see some smaller vehicles approaching, such as a powered two-wheeler, in certain lighting conditions which could lead to vehicles pulling out and turning right into the path of a powered two-wheeler, or other vehicles.

21. This concern is addressed within section 5 (road safety audit decision log) of appendix B of the report. These junctions are private accesses and not part of through routes that are within the public highway, they have limited parking spaces, and are lightly trafficked junctions. Furthermore, the junctions are at least 100m to the south of the proposal site and this separation distance is outside of the visibility splay for a 30mph road. There would be a very small interaction distance between the vehicles exiting from the junctions and advertisement.
22. This part of Scrubs Lane is a less complicated road layout where the demands on the driver are lower. There is also a low level of two-wheeler vehicle movement on Scrubs Lane. Planning conditions could control the level of illumination and hours of operation. There have been accidents within the vicinity of the site. However, considering the circumstances of the accidents (including direction of travel, location, and cause), I am satisfied that the display would not conflict with highway safety issues in this location.
23. Consequently, based on the evidence provided I am satisfied that the advertisement would not create an unacceptable impact in terms of driver distraction and risk to road safety for traffic passing the proposal site. Accordingly, it would not have an unacceptable impact on highway safety and would not be contrary to paragraph 111 of the Framework.
24. Concerns have been raised in relation to the operation of the railway line and the safeguard of TfL network, but no substantive evidence has been provided to demonstrate the proposal would cause harm. The appellant states that the necessary permissions will be sort from TFL and/ or Network Rail prior to installation works commencing. They highlight that the appeal site is more than 13 meters from the boundary of Network Rail / TfL and more than 20m from the sunken open track. Thus, no works are proposed within 10m of the rail track or boundary. Consequently, I am satisfied that the proposal would not cause damage to the open track or disrupt the TfL network.
25. For the reasons given above and based on the information presented, the proposed advertisement would not have an unacceptable impact on public safety. The provisions of the development plan, so far as they are relevant, have been considered. Since the proposed advertisement would not have an unacceptable impact upon public safety, the scheme would meet with the aims of Policies DC9, T2 and T6 of the LP, Policy T3 of the London Plan (2021) and, in this regard, paragraph 136 of the Framework.

Other Matters

26. I am satisfied that the advertisement would not cause harm to the setting of the listed buildings in St Mary's Cemetery due to their siting, intervening trees, vegetation, and buildings as well as available sightlines. The proposal would preserve the special interest of those heritage assets.

27. The appellant has raised concerns in relation to objection comments and neighbour notifications. Furthermore, they highlight that the Council has had ample opportunity to determine the application. The other matters raised, and benefits of the advertisement, do not outweigh the harm identified above, and the concerns raised would be matters for the Council.

Conclusion

28. Although I have found that the advertisement would not have an unacceptable impact on public safety, the scheme would harm the amenity of the area to which I attach significant weight. For these reasons, I conclude that the appeal should be dismissed.

L Wilson

INSPECTOR