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## Appeal Decision

Site visit made on 15 April 2024

**by S Poole BA(Hons) DipArch MPhil MRTPI**

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

**Decision date: 15<sup>th</sup> May 2024**

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**Appeal Ref: APP/U5360/Z/23/3334954**

**Pavement o/s Wentwood House, Upper Clapton Road, Hackney, London E5 9BY**

- 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 Mrs Adele Grogan of Clear Channel UK against the decision of the Council of the London Borough of Hackney.
  - The application Ref 2023/2003, dated 23 August 2023, was refused by notice dated 19 October 2023.
  - The advertisement proposed is described on the application form as a free-standing advertising CIP unit featuring double-sided digital displays measuring 1635mm (H) x 924mm (W) to replace existing/recently removed free-standing advertising CIP unit featuring double-sided internally illuminated 6-sheet displays.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) require that applications for the display of advertisements are considered in the interests of amenity and public safety, taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.
3. The Council has referred to development plan policies contained within the London Plan (2021) and Hackney Local Plan 2033 (2020) (HLP). HLP Policy LP7, Advertisements, is material in this case. It states that advertisements must not, amongst other things, contribute to an unsightly proliferation or clutter of signage in the local area, detract from the amenity of the street scene, cause a physical obstruction to the public realm, or cause visual intrusion by virtue of light pollution. I also note HLP Policy PP1 states that development should create wide, clear and level pavements and avoid unnecessary clutter.
4. The description of the advertisement proposed given on the application form refers to the replacement of an "existing/recently removed" free-standing advertisement unit. At the time of my visit an existing unit did not remain in place.

## **Main Issues**

5. The main issues are the effects of the proposed advertisement on visual amenity and highway safety.

## **Reasons**

### *Background*

6. The proposed advertisement would comprise a free-standing Council Information Panel (CIP) unit which would be about 2.6m high, by 1.1m wide, and have a depth of about 0.2m. It would have approximately 1.6m high by 0.9m wide digital display panels on both sides with an illuminance level of 3500cd/m<sup>2</sup>. The unit would be constructed of a dark grey metal. In addition to displaying advertising the appellant advises that the unit would display Council corporate messages (10% minimum), as well as Council and other emergency messages from time to time.
7. The proposal would be located in a position previously occupied by a slightly larger double-sided internally illuminated advertising structure. The information before me indicates this was given consent in the late 1990s, prior to the current Regulations coming into place and prior to the adoption of the current development plan and the National Planning Policy Framework (2023). Whilst the previous advertising structure is noted, it does not form a fall-back position as there is no longer an existing structure that could be retained if this appeal is dismissed. The effects of the proposal on amenity and public safety therefore need to be assessed against the situation that exists today, namely a section of pavement that is without an advertising structure.

### *Visual Amenity*

8. The appeal site comprises a section of pavement on the western side of Upper Clapton Road. With the exception of a bus stop and regularly spaced lampposts the pavement within which the proposal would be sited is relatively free from street furniture and has an uncluttered open appearance.
9. This portion of this busy main road is primarily residential in character with 5-storey blocks of flats to either side. These are set back from the road and hence the mature trees and semi-mature trees in front of these buildings are a prominent feature in the street scene. The relatively verdant and uncluttered appearance of the street scene and its residential character are matters to which I attach significant weight.
10. I note that the nearby bus shelter incorporates some advertising. However, the proposal would be a standalone structure and would include digital illumination. In this verdant residential context the proposal would be a visually incongruous and obtrusive element.
11. Due to its siting, size, appearance and method of illumination I therefore conclude that the proposal would have an unacceptable effect on the visual amenity of this part of Upper Clapton Road. I have taken into account the policies identified above which are material to this case. Given that I have concluded that the proposal would harm amenity, it follows that it conflicts with these policies.

### *Highway Safety*

12. The section of pavement within which the proposal would be sited is relatively wide and, due to the residential character of the area, pedestrian traffic is low. Whilst due to its size and siting the proposal would create an additional obstruction, I am satisfied that this would not result in harm to pedestrian safety.
13. Due to its size, siting and level of illumination the proposal would be highly conspicuous to road users. However, the road is straight, there are few distractions and traffic speeds are restricted so I am satisfied that the level of distraction resulting from the proposal would not cause harm to the safety of road users.
14. I therefore conclude on this matter that the proposal would not result in harm to highway safety. I have taken into account the planning policies cited by the Council that are material to this issue. Given that I have concluded that the proposal would not harm highway safety, it follows that it accords with these policies. This lack of harm does not outweigh the harm identified in respect of the first main issue.

### **Other matters**

15. The appellant has referred to various social and economic benefits that may arise from the installation of the proposed advertisement, including additional revenue for the Council and the provision of an on-street public communications service. However, the Regulations stipulate that advertisements are subject to control only in the interests of amenity and public safety, and therefore the benefits referred to cannot be taken into account. Accordingly, I attach minimal weight to these matters.
16. The appellant has provided information on some of the many instances of advertisement consent being granted for double-sided freestanding advertising panels throughout London. This is noted. However, each application and appeal must be considered on its individual merits having regard to the particular characteristics of a site's context. As such I attribute limited weight to the information provided.

### **Conclusion**

17. For the reasons set out under the first main issue, and having regard to all other matters raised, I conclude that the appeal should fail.

*S Poole*

INSPECTOR