



Appeal Decision

Site visit made on 9 July 2024

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2024

Appeal Ref: APP/U5360/Z/24/3341457

128 Kingsland High Street, Hackney, London E8 2NS.

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Chada against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/2691.
 - The advertisement proposed is erection of non-illuminated banner display.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. In 2015, an application for advertisement consent (Ref: 2015/3832) was refused and an appeal was subsequently dismissed on 21 April 2016 (Ref: APP/U5360/Z/16/3142985). Prior to the 2015 application, the appellant asserts that the site was occupied by a non-illuminated banner sign which benefitted from deemed consent.
3. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations), paragraph 141 of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) all confirm that advertisements should be subject to control only in the interests of amenity and public safety. PPG paragraph 18b-079-20140306 confirms that amenity is not defined exhaustively in the Regulations. It includes aural and visual amenity (Regulation 2(1) and that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest (Regulation 3(2)(a)).
4. Neither main party has raised concerns about the potential of the proposed advertisement's effect on public safety or aural amenity. Accordingly, the main issue in this appeal is the effect of the proposed advertisement on the visual amenity of the area, including the Dalston Conservation Area.

Reasons

5. Located within primary retail frontage within the Dalston Town Centre and the Dalston Conservation Area, the four-storey building at 128 Kingsland High Street site lies at the south-eastern corner of Kingsland High Street and Sandringham Road. The building's ground floor is in retail use and the upper floors are in residential use.

6. Though not listed itself, No 128 faces the Grade II listed Rio Cinema at 103 – 107 Kingsland High Street. The Dalston Conservation Area Character Appraisal (2016) (the character appraisal) identifies the junction of Kingsland High Street, Sandringham Road, and John Campbell Road as a focal point with important views.
7. Dalston Conservation Area forms part of an ancient thoroughfare, with a linear and cohesive mid-Victorian to Edwardian shopping street. The character appraisal describes the unlisted terrace at 90 – 128 Kingsland High Street as dating from 1851 and being one of the street's longest terraces. Though altered and partially replaced following wartime damage, the character appraisal finds the four-storey purpose-built shopping terrace to be a handsome ensemble. Despite not being mentioned specifically in the character appraisal, No 128 has a rendered upper frontage with decorative corner treatments. The elevation facing Sandringham Road consists of painted brick, with three windows and three 'blind' windows. A decorative cornice separates second and third floors on both the front and flank elevations.
8. The proposed advertisement would comprise a scaffold-mounted non-illuminated banner display with a chamfered metal cladding frame on the Sandringham Road flank elevation. The display would consist of a non-PVC recyclable canvas banner. It would abut the ground floor unit's fascia signage and would terminate adjacent to the top of the third floor window. It would cover the blind windows and much of the flank elevation's brickwork and cornice between second and third floors, stretching from the easternmost decorative corner treatment to the existing flank elevation windows.
9. While Kingsland High Street's character and appearance is that of a bustling town centre with active frontages created by ground floor retail units with advertising, the proposed advertisement would be excessively large and obtrusive. Notwithstanding its location and the potential transience of views, the proposed advertisement would be prominent when viewed from the context of Kingsland High Street.
10. Given its proposed size and siting and notwithstanding its lack of illumination, it would fail to be proportionate to the building's design and scale. It would give rise to visual clutter and proliferation of advertising due to its size, design and co-location with the other advertising present at the building's ground floor level. Covering existing historic features on the flank elevation, it would be entirely incongruous with the building and the wider conservation area.
11. While the building's architectural features would not be lost, the building's somewhat dilapidated condition does not justify the unsympathetic nature of the scheme. Despite its condition, the building's existing flank elevation makes a positive contribution to the building and the conservation area, which would be diminished by the insertion of an overbearing banner display.
12. Although there is photographic evidence of a non-illuminated banner sign which was previously at the site, it was evident from my site visit that there is no banner sign. Not only is it no longer present, but it was also smaller than the proposed advertisement. As such, the previous banner sign has little weight as a material consideration. Though large advertisement displays are fairly commonplace in urban locations, this does not alter my concern about the proposed advertisement in this specific location.

13. The appellant has referred to partial use of the proposed advertisement by the Council. It has been suggested that a condition could secure this dual usage. Not only is no such condition before me, but I am unconvinced that such a condition would meet the tests at paragraph 56 of the Framework. These are that the condition is necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
14. Mention has been made of the Framework's emphasis on building a strong, competitive economy and ensuring the vitality of town centres, with significant weight placed in paragraph 85 of the Framework on the need to support economic growth and productivity, taking account of both local business needs and wider opportunities for development. However, no detail has been provided on the economic benefits of the proposed advertisement.
15. I conclude that the proposed advertisement would have a harmful effect on the visual amenity of the area, including the Dalston Conservation Area. The Council has referred to London Plan 2021 Policies D3 and HC1 and Hackney Local Plan 2033 (Adopted July 2020) Policies LP1, LP3, and LP7, the Shopfront Design Guide (undated)(the guide) and the character appraisal, as they deal with advertisements, design quality, and the effect of development on character, appearance and heritage.
16. Powers under the Regulations require decisions to be made only in the interest of amenity and public safety, taking account of any material factors. I have therefore taken the aforementioned policies, guide and character appraisal into account insofar as they are relevant to those matters as a material consideration, but they are not a determining factor in this case which I have considered in the light of the Regulations. The proposed advertisement would also be contrary to paragraph 141 of the Framework which states that the quality and character of places can suffer when advertisements are poorly sited and designed. I have also had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which asserts that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

Conclusion

17. For the reasons given above, the appeal should be dismissed.

Joanna Gilbert

INSPECTOR