

Appeal Decision

Site visit made on 5 June 2024 by N Manley BA (Hons)

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Appeal Ref: APP/U5360/Z/24/3336553

FSU 0112-0226, Mare Street, o/s no 331, Near Graham Street, Hackney E8 1HA

- 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 Mrs Adele Grogan (Clear Channel UK) against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/2151.
 - The advertisement proposed is 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.
-

Decision

1. The appeal is allowed and express consent is granted for a Free-Standing Advertising CIP unit featuring double-sided digital displays measuring 1635mm (H) x 924mm (W) as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:
 - 1) The intensity of the luminance of the advertisement hereby granted consent shall be no greater than 300 candela per square metre permitted at night (from dusk until dawn).
 - 2) The advertisement displays shall only display static images and shall not display any moving images, animation, intermittent or full motion video images. All changes of image shall be instantaneous (less than 1 second).
 - 3) No individual advertisement or image shall be displayed for a duration of less than 10 seconds.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) set out that powers under those Regulations

shall be exercised 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.

4. The description of the advertisement on the application form referred to the replacement of an "existing / recently removed unit." At the time of my visit there was no advertisement unit in place. I have also removed reference to this previous display from the decision above, as it does not form part of the scheme before me.

Main Issues

5. The main issues are the effects of the proposed advertisement on the amenity of the area and public safety.

Reasons for the Recommendation

Amenity

6. The Planning Practice Guidance (PPG) sets out that in practice, 'amenity' is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement, and the local characteristics of the neighbourhood should always be considered. The National Planning Policy Framework (the Framework) sets out that the quality and character of places can suffer when advertisements are poorly sited and designed.
7. The site is located within Town Hall Square Conservation Area (THSCA), which derives considerable significance from its street pattern and the layered arrangement of spaces and buildings. This combination creates a cohesive historic street fabric, showcasing the area's development into one of Hackney's principal districts.
8. The development site is a section of paved footway situated north of the busy junction of Mare Street and Graham Road, adjacent to a pedestrian crossing. Directly to the west is 331 Mare Street (no 331), a four-storey late 19th-century building notable for its gothic arches. Next to it stands 333-337 Mare Street, a three-storey 20th-century Art Deco structure. To the north is a relatively low railway bridge, with several large established trees. These together dominate the street scene.
9. At street level, the road is lined with retail establishments, creating a bustling commercial atmosphere with moderately busy pedestrian activity. From the appeal site a variety of advertisements are visible, primarily consisting of standard shop sign fascia associated with commercial properties. Also visible are several illuminated projecting signs. The pavement includes street furniture such as bus stops and refuse bins along with streetlamps and various traffic signals. Overall, given these surroundings, I consider the appeal site makes a neutral contribution to the THSCA.
10. The proposed advertisement would be of relatively modest size when viewed against the backdrop of No 331, the low railway bridge and large trees. Although illuminated, this size and its position close to a tree and the edge of the pavement would ensure the proposal would be visually relatively small and unobtrusive. It would also be seen in a highly commercial context with

many other advertisements around. Consequently, by virtue of its size, scale and positioning it would not appear as incongruous within the streetscape.

11. While there are a number of existing street furniture items in the area, the pavement is wide in this location so does not appear unduly cluttered. In this context, the addition of this single advertisement would not result in an unsightly proliferation or clutter of signage in the local area or harmfully alter the public realm.
12. There are numerous externally illuminated fascia and projecting signs nearby, and streetlights mean that this is a well-lit area. Therefore, the advertisement's illumination would not appear out of character during the day. It could be more prominent at night, however the illumination would be restricted during hours of darkness, which would reduce its visual impact to an acceptable level. This can be secured by condition. While I acknowledge that there are no similar digital advertisements with changing displays in the vicinity, they are increasingly common in urban areas and would not therefore appear out of place in this street scene.
13. Comments were received regarding potential noise pollution. The Council has not expressed any concerns regarding any potential harmful effects from noise pollution and based on my observations and the other evidence before me, I find no grounds to disagree. Consequently, I am satisfied that the scheme would uphold the area's amenity with regard to noise pollution.
14. Accordingly, in the context of the existing advertisements nearby and the commercial, urban character of the area this proposal would not harm the character of the streetscape or the public realm and would preserve the character and appearance of the THSCA. Therefore, it would not harm the amenity of the area.
15. I have taken into account policies D4, D8 and HC1 of the London Plan (2021) and Policies PP1, LP1, LP3 and LP7 of Hackney's Local Development Plan (2023). As the proposed advertisement would not harm the THSCA or the amenity of the area, I find no conflict with these policies.

Public Safety

16. The PPG states that while all advertisements are designed to attract attention, those placed where drivers need to be more cautious such as at junctions, roundabouts, pedestrian crossings, approaches to low bridges, level crossings, or other areas with traffic hazards, are more likely to impact public safety. It further indicates that road safety problems are less likely if the advertisement is located within a commercial or industrial area, if it is a shop fascia sign, name-board, trade or business sign, or a standard poster panel, and if it is not on the skyline.
17. The proposed advertisement would be located near the outer edge of the pavement. During my visit I saw a steady flow of pedestrians in the vicinity and there was ample space available to each pedestrian. Considering the proposed modest width of the advertisement and its proposed positioning, it would leave sufficient space for pedestrian activity as well as wheelchair and other users. The appellant has confirmed that the structure has been designed to be suitable for people with visual impairments. In the absence of

any substantive evidence to the contrary, I am therefore satisfied that the proposal would not block the pavement or obstruct pedestrians or other users of the footway.

18. The Council has raised concerns that the proposal could obscure lines of sight but has not specified where. The advertisement would be close to a parking bay, but sufficient visibility would remain for vehicles on the road or entering and exiting the parking bay to see each other in good time. The 20 mph speed limit, nearby signal-controlled junction and pedestrian crossing mean that traffic speeds are slow. There is no substantive evidence before me to suggest that the advertisement on the pavement would obstruct vehicle or pedestrian sight lines at the junction of Graham Road and Mare Street.
19. A digital, illuminated advertisement would not be out of place or be an unexpected feature for drivers in an urban, commercial context. Given its proposed siting and relatively modest size in comparison to surrounding features, it would not result in undue distraction, subject to conditions to control illumination and how the images change.
20. Therefore, based on the information before me, the proposal would not have an unacceptable impact on safety of pedestrians or other highway users as a result of its scale, appearance, location or illumination. Consequently, it would not harm public safety. I have taken into account Policy D8 of the London Plan and Policies PP1, LP7, LP41 and LP42 of the Local Plan which, amongst other things, seek to ensure proposals contribute to a safe road environment. Given I have concluded that the proposal would not harm public safety, the proposal does not conflict with these policies.

Other Matters

21. I have considered all the comments received regarding the proposal. As the power to control advertisements under the Regulations may be exercised only in the interests of public safety and amenity, the need for the proposal, what images it might display, its energy use, carbon emissions and overall environmental performance, and if there are any associated public benefits are not matters for my consideration.
22. Decisions on other similar proposals elsewhere in the Borough are not before me and are a matter for the relevant decision-maker having regard to the merits of each case and the specific context of each site. I have considered this proposal on its own merits and found no harm in this context.

Conditions

23. In addition to the five standard conditions set out in the Regulations, I recommend three additional conditions to control illumination and the nature of the display, in order to safeguard the amenity of the area and public safety.
24. The Council suggests that illumination of the advertisement be limited to 100 cd/m² during periods of darkness in the interests of neighbour amenity. There are however no residential properties at the level of the proposed advertisement, and it has not been explained why this very low level of illumination would be necessary in this well-lit urban area. Consequently, I

recommend limiting luminance to the level set out in the Institute of Lighting Professionals Guidance¹ as being suitable for night time illumination in urban areas.

Conclusion and Recommendation

25. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to conditions.

N Manley

APPEAL PLANNING OFFICER

Inspector's Decision

26. I have considered all the submitted evidence and my representative's report and agree with the reasoning and recommendation. On that basis the appeal is allowed subject to the five standard conditions and additional conditions listed above.

L McKay

INSPECTOR

¹ The Brightness of Illuminated Advertisements Including Digital Displays: Professional Lighting Guide 05/23