The Planning Inspectorate

Appeal Decision

Site visit made on 7 December 2016

by G J Fort BA PGDip LLM MCD MRTPI

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

Decision date: 16 December 2016

Appeal Ref: APP/X5990/Z/16/3159416
65 Alfred Road, City of Westminster, London W2 5EU

- 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 Great Western Studios Limited against the decision of City of Westminster Council.
- The application Ref 16/05416/ADV, dated 9 June 2016, was refused by notice dated 4 August 2016.
- The advertisement proposed is an integrated digital media display.

Decision

1. The appeal is allowed and express consent is granted for the display of the integrated digital media display 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 illumination of the sign permitted by this consent shall be no greater than 200 cd/m^2 between dusk and dawn.

    2) The sign shall not display any moving or apparently moving images. No special visual effects of any kind shall be permitted during the time that any image is displayed. The displayed image shall not include animated, flashing, scrolling, intermittent or video elements.

    3) No visual effects of any kind shall be permitted to accompany the transition between any two successive images. The replacement image shall not incorporate any fading, swiping or other animated transitional method. Any sequential change between images shall take place over a period no greater than 1 second.

    4) The advertisements displayed on each panel shall not change more frequently than once every 15 seconds.

    5) Messages relating to the same product shall not be sequenced.

Procedural Matter

2. The Council's decision notice gives the proposed advertisement's effects on bats as a reason for refusal. However, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) provide that powers to control advertisements should only be exercised in the interests of amenity and public safety. The Government's Planning Practice Guidance (PPG) makes it clear that in practice "amenity" is usually understood to mean

the effect on visual and aural amenity in the immediate neighbourhood of an advertisement. Whilst I note that paragraph 67 of the National Planning Policy Framework (the Framework) states that "poorly placed advertisements can have a negative impact on the appearance of the … natural environment" it is clear that it is appearance that is the relevant consideration in the application of this aspect of policy. Moreover, specific statutory protection for bats is provided by the Wildlife and Countryside Act 1981. Consequently, the assessment of the proposed advertisement's effect on bats falls outside of the ambit of the Regulations, and thus is not a main issue in the consideration of this appeal.

Main Issue

3. I note that the highway authority does not object to the scheme subject to conditions restricting both the display of moving images on the screen and its luminescence. Thus the main issue in this appeal is the proposed advertisement's effect on amenity in terms of the character and appearance of its host building and the surrounding area; and the residential amenity of the occupiers of dwellings in the surrounding area.

Reasons

4. The appeal site is the wall of 65 Alfred Road, a large and prominent commercial building, the upper storeys of which are adjacent to the elevated deck of the A40 Westway, in the environs of the Grand Union Canal. The appeal scheme seeks to locate a digital media display screen on the upper element of the narrow eastern elevation of its host building, above the level of the Westway. The display screen would measure around 3m by 6m, and be inset into the façade of the building.

5. The host building is large, and its elevational detailing is of a simple and modern character. The narrow elevation on which the proposed advertisement would be fixed has a vertical emphasis which is a pleasing contrast to the horizontal emphasis of the longer elevations, with their rows of windows. The proposed advertisement's scale and vertical emphasis would fit comfortably into the proportions of this narrow elevation. Moreover, as the proposed advertisement would be inset into the façade it would readily assimilate with the simplicity of the host building's elevational detailing. Consequently, the proposed advertisement would not read as a dominant or visually jarring element and would not be harmful to the industrial canalside character of the building.

6. The proposed advertisement would be visible from the Grand Union Canal. I saw that the deck of the Westway would obscure the view of the proposed advertisement in a number of views. In the limited viewpoints where the advertisement would be visible from the Grand Union Canal it would be so along a stretch of the towpath that is dominated visually and aurally by the Westway, and the monolithic brick wall of the Westbourne Park Bus Garage topped with razor wire in places that abuts on the towpath. Across the canal, further modern high rise development would be inter-visible in views of the advert. Consequently, whilst elsewhere along the canal its environment is considerably more open and green, the character in the immediate environs of the appeal site has a hard urban edge, dominated by the modern engineering of the Westway. As a result, I consider that the proposed advertisement would

not look incongruous or harmful within these harder urban and engineered surroundings.

7. The proposed advertisement could be viewed obliquely from some of the upper storey flat windows and balconies of the tall residential properties around Elmfield Way across the canal from the appeal site. However, in these views the proposed advertisement would clearly be viewed in the context of the Westway. In these views, which in the evenings particularly would be marked by passing car headlights, and the road signage over the carriageway, the proposed advertisement's limited scale and luminance would neither be obtrusive or prominent. Consequently, I consider that it would not have a detrimental effect on the outlook available to the occupants of these buildings and as a result no material harm to their residential amenity.

8. Views of the proposed advertisement from the Brunel Estate would be remote across the Westway and other wide highways and railways lines, and part of a much broader view. Similarly, the proposed advertisement would only be of marginal inter-visibility with the Aldridge Road and Leamington Villas Conservation Area, again in a wider view in which transport engineering features dominate. The proposed advertisement would be by no means prominent or dominant in these views, and would integrate to some degree with existing signage on the Westway, and thus I consider that it would not have any detrimental effects on either the residential amenity of the occupiers of dwellings in these areas, or on the character and appearance of the conservation area.

9. My attention has been drawn to the history of applications for express consent relating to the Westbourne Park Bus Garage[1]. However, each application needs to be considered on its own merits, and for the reasons given above, I consider that the proposed advertisement would not cause any adverse effects to the character and appearance of its surroundings; or to the living conditions of the occupants of residential properties in its immediate surroundings. Consequently, the proposed advert would cause no harm to amenity and thus would meet the requirements of Policies S28, S29 , S37 of Westminster's City Plan-Strategic Policies; and Policies DES1, DES5 and DES8 of the Westminster Unitary Development Plan. Taken together, and amongst other matters, these policies seek to ensure that proposals for new advertisements avoid harm to the character, appearance and residential amenity of their surroundings.

Conditions

10. Given the prominence of the proposed advertisement adjacent to the Westway, and particularly directional signage that may lead to drivers changing lanes in its vicinity, I have attached a number of conditions ensure that it avoids harmful effects to public safety. These are necessary to ensure that the proposed advertisement displays static images of a tolerable luminance in order to minimize driver distraction, and in line with the limits suggested by the appellant.

11. As accident data is collected by highway authorities, I do not consider it necessary to attach a condition requiring monitoring of accident data by the

[1] Council refs: 93/08456/ADV; 94/01798/ADV; 95/07126/ADV;95/09031/ADV; 96/00734/ADV; 96/05448/ADV; 96/06310/ADV; 03/02808/ADV; 03/02809/ADV; 05/03081/ADV

appellant in the vicinity of the proposed advertisement for submission to the Council.

12. Due to the condition limiting the proposed advertisement's luminance between dusk and dawn, I have not found it necessary for either public safety or amenity reasons to require displays to be switched off totally in the night time and early mornings.

13. As the proposed advertisement's potential effects on the bat population are outside of the scope of the Regulations, attachment of a condition requiring monitoring of bat populations would not be relevant or necessary in this instance.

Conclusion

14. For the reasons given above, and having regard to all other matters raised, I conclude that the display of the advertisement would not be detrimental to the interests of amenity and public safety, and accordingly the appeal should succeed.

G J Fort

INSPECTOR