

Appeal Decisions

Site visits made on 15 March 2017

by P G Horridge BSc(Hons) DipTP FRICS MRTPI

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

Decision date: 3rd April 2017

Appeal A Ref: APP/Z0116/Z/17/3167689

Telephone kiosk outside 11-13 The Promenade, Gloucester Road, Bristol BS7 8AL

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the 'Regulations') against a refusal to grant express consent.
 - The appeal is made by New World Payphones against the decision of Bristol City Council.
 - The application Ref 16/05350/A, dated 3 October 2016, was refused by notice dated 25 November 2016.
 - The advertisement proposed is an internally illuminated digital panel as integral part of telephone kiosk.
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The following appeals have been made by the same appellants, for identical proposals, against decisions of the same local planning authority.

Appeal B Ref: APP/Z0116/Z/17/3167690

Telephone kiosk outside 2-4 Fairfax Street, Bristol BS1 3DB

- The application Ref 16/05356/A, dated 3 October 2016, was refused by notice dated 25 November 2016.

Appeal C Ref: APP/Z0116/Z/17/3167691

Telephone kiosk outside 1 Lewins Mead, Bristol BS1 2LJ

- The application Ref 16/05358/A, dated 3 October 2016, was refused by notice dated 25 November 2016.
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Preliminary Matters

1. The appeals each concern the installation of an illuminated advertisement panel on the side of a payphone kiosk. The kiosks have not yet been installed and would replace existing payphone kiosks of a different design which do not incorporate illuminated advertisement panels. No information has been provided by either party as to whether the proposed kiosks have the benefit of planning permission. Nevertheless the appeals are in respect of the refusal of advertisement consent for the illuminated panels, so have been considered purely on this basis. As the three appeals are in respect of similar proposals within the same local authority area, I have dealt with them in a single letter, although each has been considered on its individual merits.
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2. The address of Appeal C is given on the application form as outside 5-7 Bridewell Street, Bristol BS1 2QD. However, this is incorrect and the correct location is as given above.
3. Since the effect of the illumination is central to the consideration of the appeals, I visited the sites during daylight hours and also after sunset.

Decisions

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4. The appeal is allowed and consent for the display of the advertisement as applied for is granted. 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 digital advertisement panel shall display static images only. The images shall be changed no more frequently than once every ten seconds through a smooth fade. No moving images or special effects shall be shown.
 2. The intensity of illumination of the digital advertisement panel shall be no greater than 280 candelas per square metre during the period between dusk and dawn.

Appeal B Ref: APP/Z0116/Z/17/3167690

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6. The appeal is allowed and consent for the display of the advertisement as applied for is granted. 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.
 1. The digital advertisement panel shall display static images only. The images shall be changed no more frequently than once every ten seconds through a smooth fade. No moving images or special effects shall be shown.
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Main issues

7. At issue in respect of all three appeals is the effect on the character and appearance of the area, having particular regard in the case of Appeals A and B to the site's location within a conservation area and in respect of Appeal C to its effect on the setting of a nearby listed building.

Reasons

8. The illuminated panels would measure 1650mm high by 928mm wide. This is slightly smaller than the standard 6 sheet panel poster used in the advertising industry. According to the appellants, the panels would display static images in sequence, changing by smooth fade no more frequently than every 10 seconds. They further say that the brightness of the display would be controlled by a sensor which monitors ambient light and that, during darkness, the illumination would be restricted to a maximum of 280 candelas per square metre, which is well below levels recommended by the Institute of Lighting Professionals for such installations in commercial areas. As such they maintain that the display would never appear overly bright or cause glare. The council regards the method of illumination as insensitive, but in the light of the above explanation there is no reason why the display should be any brighter or more intrusive than a conventional advertisement display unit with internal fluorescent lighting.
9. In accordance with the Regulations, decisions on these appeals can be made only on the grounds of the impact on amenity or public safety. No public safety issues have been raised. Unlike appeals against the refusal of planning permission, there is no statutory requirement to make the decision in accordance with the development plan, although the Regulations do provide that the development plan shall be taken into account so far as it is material. Policies BCS21 of the Core Strategy (CS) (2011) and Policies DM26 and DM28 of the Site Allocations and Development Management Policies Local Plan (LP) (2014) promote high quality design in the public realm and the safeguarding of local character and distinctiveness. LP Policy DM29, dealing with new buildings, makes specific reference to signage (and its illumination) associated with such buildings.
10. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving or enhancing the character and appearance of the conservation areas in which two of the appeal sites are situated. In the case of Appeal C, Section 66 of the same Act imposes a similar duty in respect of the setting of listed buildings. These considerations are echoed in Policies BCS22 of the CS and DM31 of the LP.
11. The National Planning Policy Framework places great importance on protecting heritage assets, including listed buildings and conservation areas. Paragraph 132 notes that the significance of a heritage asset can be harmed through development within its setting. Substantial harm to a heritage asset should generally be avoided (paragraph 133) but where there is less than substantial harm such harm should be weighed against the public benefits of the proposal (paragraph 134). Paragraph 67 of the NPPF notes that poorly placed advertisements can have a negative impact on the appearance of the built environment but that only those advertisements that will clearly have an

appreciable impact on a building or on their surroundings should be subject to detailed assessment.

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12. This site lies within a shopping street which is within the Gloucester Road Conservation Area. There are at present 2 red telephone kiosks on the site, located back-to-back such that there is currently no blank side suitable for an advertisement display. The appeal proposal envisages an illuminated panel on the blank side of a single replacement kiosk.
13. The conservation area derives its character partly from its commercial nature with a wide range of shops and other town centre uses. The draft Conservation Area Appraisal describes this part of the conservation area as having a 'vibrant commercial character'. There is a considerable amount of shopfront signage and street furniture, and the kiosk and its advertisement would be located in front of a modern parade of shops. Some of the signage in the locality is illuminated. Given these characteristics, the proposed advertisement panel would not appear out-of-place and would contribute to the diverse commercial character of the locality, thereby preserving the character of the conservation area.

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14. The site is within Bristol city centre, close to the Broadmead shopping centre. There is at present a single red telephone kiosk on the site, with its blank side hosting non-illuminated advertising. The appeal proposal envisages an illuminated panel on the blank side of a single replacement kiosk.
15. The site lies on the outer edge of the City and Queen Square Conservation Area. This area encompasses the medieval Old City together with the later 18th century more formal areas around the open space of Queen Square. The conservation area appraisal notes that the character of the area is derived from its historical development and quality of built form, combined with the historic street layout and traditional plot boundaries.
16. The site is also within the Nelson Street and Lewins Mead Regeneration Area which, under Policy BCAP38 of the Bristol Central Area Plan (2015) is to be developed for a mix of uses and where new development will be expected to contribute towards public realm improvements.
17. The immediate area is mainly commercial, with both sides of Fairfax Street lined by modern twentieth century buildings having shops on the ground floor. The shop outside which the advertisement would be situated, 2-4 Fairfax Street, has an illuminated fascia sign which the appellant says has the benefit of express consent. There is other illuminated signage in the locality, including a freestanding illuminated panel in Nelson Street a short distance away (albeit outside the conservation area). The proposed illuminated panel would accord with this mainly commercial character. It would be located on the very fringe of the conservation area, in an area of twentieth century redevelopment, and would have no effect on the elements described above that give the area its special character. As such it would not conflict with the preservation or enhancement of the character and appearance of the conservation area, nor have an adverse effect on amenity.

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18. The site lies at a busy intersection within the centre of the city. There are at present 2 red telephone kiosks on the site, located back-to-back such that there is currently no blank side suitable for an advertisement display, albeit non-illuminated advertisements have been posted on a side glass panel of one kiosk. The appeal proposal envisages an illuminated panel on the blank side of a single replacement kiosk.
19. The council's reason for refusal alleges that the signage would affect the setting of the listed building at 7 Bridewell Street. At the time of my visit, the frontage of this building was covered in scaffolding. The appellant points out that there is a freestanding double-sided illuminated panel display even closer to this building than the appeal proposal, but this panel appeared to have been removed at the time of my visit. Nevertheless, 7 Bridewell Street is some distance from the proposed advertisement and there would be no intervisibility between the two. Accordingly, the advertisement would have no effect on its setting.
20. The advertisement and its kiosk would be outside the Bay Horse public house which at the time of my visit had an outdoor seating area between the building and the kiosk. The surrounding area is mainly commercial, with shop premises on the ground floor with considerable amounts of signage, some of which is illuminated. In the light of this character the proposed advertisement would have no adverse effect on the appearance of the area.

Summary and Conclusions

21. In all three cases the advertisements would be in mainly commercial areas with existing signage and illumination. In the case of the first two appeals, the character and appearance of the conservation areas in which they are located would be unharmed. In the case of the third appeal, there would be no effect on the setting of the nearby listed building. The three advertisement panels would therefore have no adverse effect on amenity and the appeals are allowed.
22. The particular characteristics of the digital displays explained by the appellants are relevant to the decision to allow these appeals. In the interests of amenity therefore I consider it necessary to impose conditions, additional to the standard conditions, that restrict the intensity of illumination in hours of darkness and ensure that the digital displays show only static images with changes no more than once every ten seconds.

Peter Horridge

INSPECTOR