

Appeal Decision

Site visit made on 28 March 2017

by Jameson Bridgwater PGDipTP MRTPI

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

Decision date: 24 April 2017

Appeal Ref: APP/X5210/Z/17/3168975

Bus Shelter (stop D) in front of Kings Cross Station, Euston Road, London N1 9AL

- 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 Ms Joanna Kujawska (JC Decaux UK Ltd) against the decision of the Council of the London Borough of Camden.
 - The application Ref 2016/1582/A, dated 14 March 2016, was refused by notice dated 19 January 2017.
 - The advertisement proposed is described as 'Double-sided freestanding Forum Structure, featuring 2 x Digital 84" screen positioned back to back. The Digital screen is capable of displaying illuminated, static and dynamic content, supplied via secure remote connection. In the event of an emergency, TfL will be able to override the advertisement function and display an 'Emergency Message', alerting the public of immediate danger'.
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Decision

1. The appeal is allowed and express consent is granted for the display of the advertisements as applied for. The consent is for five years from the date of this decision and are subject to the five standard conditions set out in the Regulations and the following additional conditions:-
 - 1) No special visual effects of any kind are permitted during the time that any message is displayed. The displayed image must not include animated, flashing, scrolling, intermittent or video elements.
 - 2) No visual effects of any kind to be permitted to accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method.
 - 3) The minimum time between successive displayed images shall be 10 seconds.
 - 4) The sequencing of messages relating to the same product is prohibited.
 - 5) The intensity of the illuminance of the advertisement shall be no greater than 500Cdm² during hours of darkness.
 - 6) The footway and carriageway on the TLRN and SRN must not be blocked during the installation and maintenance of the advertising panel. Temporary obstruction during the installation must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians, or obstruct the flow of traffic.
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Preliminary matters

2. The Council have drawn my attention to the policies they consider to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.
3. At the time of my site visit the advert (illuminated digital display unit) was in place and operational. Furthermore, in the interests of clarity I have added the bus stop reference to the site address based on the evidence before me.

Main issues

4. The main issues in the appeal are:
 - the effect of the proposed advertisement on the amenity of the area; and
 - the effect of the proposed advertisement on public safety.

Reasons

Amenity

5. The proposal is as described above and would effectively form the end panel within the framework of an existing bus shelter (stop D). The appeal site is within the Kings Cross St Pancras Conservation Area (CA); located on the footway on the northern side of Euston Road and the on the southern end of Kings Cross Square in front of Kings Cross Station. The CA is largely defined by the adjacent Grade I listed buildings of Kings Cross Station, St Pancras Station, Renaissance Hotel, St Pancras Chambers and Grade II Great Northern Hotel and Lighthouse Building, 283-297 Pentonville Road. These buildings are imposing in scale and contribute to the amenity of the area.
6. I am therefore mindful of sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. These set out the need to have special regard to the desirability of preserving the setting of a listed building and that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
7. The street scene around Kings Cross/Euston Road is commercial in nature, with a wide range of shops, restaurants and other services displaying adverts at street level, as such the street scene is vibrant and bustling. Furthermore, the area in the vicinity of the appeal site typically contains bus shelters, kiosks with digital display advertising, way finder signage, substantial highway furniture including signal control cabinets and highway specific signage. These are generally arranged and spaced on the public realm and contribute to the urban character of the area. Therefore in this busy urban setting, the proposed illuminated digital display unit located and contained within the frame and footprint of the existing bus stop shelter would not appear dominant or obtrusive. Furthermore, given the site specific context and its location within an existing structure, the proposed advert either on its own or cumulatively with the adjacent advertisements would have a neutral effect on the character and appearance of the CA and the setting and therefore, the significance of the Grade I and II Listed Buildings identified above.

8. Having come to the conclusions above, the proposed advertisement in this site specific location would not materially harm the amenity of the area.

Public safety

9. Digital displays of the size and form proposed are commonly experienced in using an urban/city transport network. Consequently, having regard to the Planning Practice Guidance, they are not of an 'unusual nature' and thereby unlikely to be a distraction to road users in that respect.
10. I accept that the display would be partially obscured to drivers approaching eastbound on Euston Road by the roadside kiosk located on the footpath. However, based on the evidence before me and my observations. The speed of the highway traffic at this point on Euston Road is constrained by a combination of the volume of vehicle movements and signal controlled junctions. Consequently, given these specific road conditions the display would be visible from a sufficient distance and it would allow adequate time for it to be seen and its content noted by drivers without causing confusion or surprise on this busy section of road. Furthermore, provided that the illumination and display are appropriately controlled by conditions, the advertisement would not be an undue distraction to drivers, including at night.
11. In reaching this conclusion I have taken into account the proximity of the appeal site to the digital display unit proposed at (stop E) which is the subject of an ongoing appeal¹. Furthermore, I am not persuaded that a planning obligation under section 106 of the Town and Country Planning Act 1990 is necessary in the interests of highway safety to ensure that multiple images do not change at different times at these adjacent sites.
12. Having reached the conclusions above, the proposed advertisement would not result in material harm to public safety.

Other considerations

13. The Council within their officer's report have referred to a number of other appeal decisions for similar schemes in Camden and cite these in support of their decision. However, I have limited information about their histories, but inevitably their contexts would differ from that of the scheme before me, and so they do not lead me to a different view in this case.

Conditions

14. Various conditions have been suggested by the appellant; I consider that the brightness of the displays, the frequency with which adverts would change, the method of change between adverts, the sequence of successive images, and the display of moving images would all have the potential to cause driver distraction and have a detrimental effect on the safe use of the highway. I have therefore imposed conditions in order to control these aspects of the proposal, albeit modified for clarity and precision.
15. The appellant suggests the luminance of the advertisements will be under 500Cdm² during the hours of darkness, but suggests a condition restricting the luminance to 600Cdm². None of the parties have suggested a condition limiting the luminance during daylight hours. Thus, in my judgement, controlling the

¹ APP/X5210/Z/17/3168979 - Bus Shelter (stop E) in front of Kings Cross Station, Euston Road, London N1 9AL

luminance to 500Cdm2 during darkness is necessary in the interest of public safety.

Conclusion

16. For the above reasons and having regard to all other matters, I conclude that the appeal should be allowed.

Jameson Bridgwater

INSPECTOR