

Appeal Decision

Site visit made on 21 April 2017

by **R J Maile BSc FRICS**

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

Decision date: 5 May 2017

Appeal Ref: APP/X5210/Z/17/3170709

Public footway outside 246 Tottenham Court Road, London, W1T 7QU.

- 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 JCDecaux UK Ltd against the decision of the Council of the London Borough of Camden.
 - The application ref: 2016/3879/A, dated 13 July 2016, was refused by notice dated 22 February 2017.
 - The advertisement proposed is: "Single freestanding Forum Structure, featuring Digital 84" screen on both sides. The Digital screen is capable of displaying illuminated, moving images and content is 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 dismissed.

Main Issues

2. The main issues in this case are:
 - a) The effect of the proposed advertisement upon the visual amenity of the area.
 - b) The impact of the proposed advertisement upon highway safety.

Reasons

- a) *Effect upon visual amenity.*
3. The appeal site comprises part of a wide public footway on the east side of Tottenham Court Road. The area is predominantly commercial, although there are some residential uses nearby. This is a busy Central London area close to Oxford Street, with retail and restaurant units at ground floor level.
 4. The parties have drawn attention to Development Plan policies, national policy in the Framework¹ and to the Government's Planning Practice Guidance which they consider are relevant to this appeal. These policies and guidance have

¹ The National Planning Policy Framework.

been taken into account so far as they are material to my consideration of this appeal.

5. At present there is no 'bus shelter in this location. Tottenham Court Road currently operates as a one-way system made up of two lanes of traffic and a 'bus lane, with vehicles travelling north along the road.
6. The siting of a 'bus shelter with clear panes and no advertising panels has been agreed in this position with the Council's Highway Engineering Team following proposed alterations to the road layout. The two screens would occupy a prominent forward position on the footway facing Stephen Street and would be clearly visible from the west side of Tottenham Court Road.
7. The design of the 'bus shelter and the inclusion of the illuminated digital display is part of a London wide programme by Transport for London ('TfL') to improve public transport provision in London. The modern design shelter would provide improved seating, better information display and an advertising screen. The shelter design also features integrated stop identification information and other technologies, including CCTV and Wi-Fi connectivity.
8. I understand that many of these integrated screens and shelter units have become operational during the last 12 months. Moreover, I note that the Council has granted permission for similar advertisements in Tottenham Court Road within the last 6 months. Some of these, however, involve double-sided structures to the end of the 'bus shelter at rightangles to the highway. In the subject case, the advertisement would be orientated to face the highway.
9. The proposed advertisement screens are an integral part of the 'bus shelter design. Having regard to the width of the pavement, the modest size of the screens and the commercial nature of surrounding development, I conclude that they would not have an adverse impact upon the character of this busy thoroughfare.
10. Although not itself within a Conservation Area, my attention has been directed to the proximity of the appeal site to the Hanway Street Conservation Area to the south and the Charlotte Street Conservation Area to the northwest. For this reason, I have considered the proposal by reference to the statutory duty imposed upon me by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I have also had regard to national policy in the Framework at Chapter 12 (Preserving and enhancing the historic environment) and at paragraph 67, which specifically refers to the control of advertisements.
11. I have concluded that the impact upon the Hanway Street Conservation Area would be minimal, given that the quality of this designated area is principally defined by the attractive older buildings in Hanway Street and Hanway Place, from which the appeal site is separated by modern buildings.
12. As to the impact of the proposal upon the Charlotte Street Conservation Area, this is too far to the north to be affected by the current proposals.
13. I accept that the digital advertisement screens would be visible from the west side of Tottenham Court Road. However, they would be seen against the backdrop of the commercial shopfronts behind. Importantly, the design of the

'bus shelter would ensure a clear view along the pavement on the east side of the road.

14. For all of these reasons, I have found on the first main issue that the proposed advertisement would not have an adverse effect upon the visual amenity of the area as required by national policy in the Framework and by Policies DP24 and DP25 of the Camden Development Policies², which seek the highest standard of design in new development and the conservation of Camden's heritage.

b) Impact upon highway safety.

15. I have referred above to the fact that the existing road layout is due to change as part of planned highway improvements, which would allow traffic to travel in both directions along the road.
16. As part of the application process the Council has consulted with its Highways Department and considers, following the advice of its Transport Officer, that the changes to the road layout will render the digital displays highly visible to traffic turning from Stephen Street onto Tottenham Court Road. The screens would face the direction of travel and are not considered to protect road users at this junction.
17. No detailed information as to the impact of the highway improvements upon traffic flows in Tottenham Court Road or the proposed junction arrangements, particularly in respect of Stephen Street, have been provided to me. As such, it is difficult for me to assess the impact of the advertisement upon the safety of road users when those changes come into effect. Nevertheless, given that the screens would directly face Stephen Street I am concerned that they could act as a distraction to drivers exiting that street onto Tottenham Court Road.
18. Accordingly, and in the light of this possibility, I have found on the second main issue that the potential exists for the proposed advertisement to be detrimental to the safety of highway users and therefore harmful to public safety. As such, the scheme would be contrary to Policy DP21 of the Camden Development Policies which, amongst other matters, expects developments to avoid causing harm to highway safety.

Conclusion

19. Notwithstanding my finding upon the first main issue concerning the effect of the advertisement upon visual amenity, my conclusion as to its potential to impact upon highway safety, based upon the limited information available to me, is a compelling and overriding consideration in this case.
20. I have noted the suggested benefits of the advertisement as identified by the appellant. These include, amongst other matters, the revenue generation for re-investment in transport infrastructure and the ability to display public information.
21. Nevertheless, advertisements are subject to control only in the interests of amenity and public safety. My conclusion upon the latter is determinative.

² The London Borough of Camden Local Development Framework: Camden Development Policies 2010-2025.

22. For the reasons given above, I have concluded that the appeal should fail.

R. J. Maile

INSPECTOR