



Appeal Decisions

Site visit made on 31 May 2017

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 28th June 2017

Appeal A Ref: APP/N5660/Z/17/3171915

Bus Shelter Advertisement (OS 359-361) Brixton Road, London SW9 7AW

- 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 Mr Mohamed Ahmed of JCDecaux UK Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 16/06606/ADV, dated 23 November 2016, was refused by notice dated 17 February 2017.
 - The advertisement proposed is a 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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Appeal B Ref: APP/N5660/Z/17/3174329

IFO No 359-361 Brixton Road, London SW9 7DA

- 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 Mr Andrew Jordan of JCDecaux UK Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 16/06968/ADV, dated 22 August 2016, was refused by notice dated 15 March 2017.
 - The advertisement proposed is a 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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Decisions

1. Both Appeal A and Appeal B are dismissed.

Preliminary Matters

2. Two applications, for identical advertisements associated with two replacement bus shelters within the same bus bay, were submitted to the Council on different dates. As a consequence they were refused on different dates and the timetables for their respective appeals are different. Nevertheless, in view of their proximity to one another, this decision letter deals with both proposals.
3. The application forms describe both proposals as a 'double-sided freestanding forum structure, featuring 2 x Digital 84" screen positioned back to back'. However, the text within the grounds of appeal for both proposals suggests

that whilst the inner facing screens would be a digital display providing interactive functions, the outer facing display would continue to be a static printed display. Notwithstanding this discrepancy, I have determined the appeals on the basis of the descriptions on the application forms.

4. The address on both application forms was given as outside Nos 359-361 Brixton Road, but with different postcodes. However, from the plans it appears that whilst the bus shelter in respect of Appeal A is outside Nos 359-361, the bus shelter in respect of Appeal B is outside Nos 353-355. I have determined the appeals on the basis of the locations shown on the submitted site plans.

Main Issue

5. The main issue is the effect of the advertisements on the character and appearance of the area.

Reasons

6. Paragraph 67 of the National Planning Policy Framework (the Framework) confirms that the issues of amenity and, where applicable, public safety, are the determining factors in advertisement appeals. The Regulations state that development plan policies alone cannot be decisive when determining cases such as this one. Nevertheless, the Planning Practice Guidance (PPG)¹ advises that in assessing the effect on amenity, factors such as historic, architectural or cultural features in the neighbourhood can be taken into consideration.
7. The appeal sites are the two bus shelters immediately adjacent to a large and busy bus bay on the eastern side of Brixton Road. This bus bay serves numerous and frequent buses. Both sites lie within the Brixton Conservation Area and the setting of a terrace that is a Grade II Listed Building, Nos 341-361. From what is set out in the Council's Brixton Conservation Area Statement and the Listing Description, this terrace is a valued heritage asset which makes a positive contribution towards the character and appearance of the Conservation Area. I have therefore had regard to my statutory duties in relation to heritage assets alongside the Council's policies, the advice and guidance of the Framework and the PPG as material considerations in reaching my decisions.

Appeal A

8. The only information about the position of the advertisements associated with the original bus shelter was a photograph that showed two advertising panels parallel with the kerb. In other respects the original shelter had an open appearance. However, on my site visit I saw two panels at right angles to the road in a back-to-back arrangement. The proposal therefore appears to have already been at least partially implemented.
9. The changed position of the advertisements makes the shelter as a whole appear more bulky and enclosed. Digital screens also appear bulkier, although they are becoming an established alternative to the printed image since they provide greater flexibility in display capability. The advertisements applied for would therefore be capable of being changed remotely at regular, albeit unspecified, intervals.

¹ Paragraph 079 Reference ID: 18b-79-20140306

10. The outer screen is in a highly prominent position, particularly for pedestrians walking in a northerly direction along the eastern side of Brixton Road. It is therefore more visually intrusive than the previous advertisement, even if it was restricted to being an internally lit, static printed image. The inner facing screen would be primarily seen by passengers waiting within the shelter and is less visually intrusive from the surrounding area.
11. The altered position of the advertisements combined with the increased capability for displaying regularly changing images means that the advertisements would detract from the setting of the nearby Listed Buildings and would be harmful to the character and appearance of the Conservation Area. Whilst the appellant suggested a condition could overcome concerns about the level of illumination, no specific wording was provided and there were no conditions suggested as a means of restricting the outer display to a printed paper image. In any event it seems to me that this would negate some of the benefits of moving to digital technology.
12. For these reasons, notwithstanding the benefits to the travelling public of providing enhanced facilities and information within the bus shelter, I conclude that Appeal A would be harmful to amenity. In coming to this view, I have taken account of Policies Q17, Q20 and Q22 of the Lambeth Local Plan and the Council's Advertising and Signage Guide. These policies seek to resist advertisements in sensitive locations, such as within conservation areas and the settings of heritage assets. They also seek to see advertisements reduced and removed in particularly sensitive locations.

Appeal B

13. The only information about the position of the advertisements associated with the original bus shelter was a photograph showing that it included two back-to-back advertisements located at its southern end. The proposal therefore did not appear to change the position of the advertisements.
14. At the time of my site visit the replacement shelter had been installed along with the digital screens. As the advertisement on the inner panel is within the shelter it is largely screened from the footway and the adjoining Listed Building. This limits its visibility for pedestrians travelling south along the eastern side of Brixton Road. The external facing sign is in close proximity to a lamp column and a raised bed containing vegetation and trees located in the gap between this shelter and the other shelter serving the same bus bay. The footway between the two shelters is narrow and is therefore unlikely to be used by pedestrians, other than those waiting at one of the two bus stops. This reduces the visibility of the outer panel to other pedestrians walking northwards along this side of Brixton Road.
15. In this context the difference between the previously positioned advertisements and those that would form part of the digital display is minimal. However, there are inconsistencies between what has been applied for (2 x 84" digital screens) and the description of what would be provided at the site. It is suggested that the outer facing display will be a printed image lit from within. However, no condition was provided by either party suggesting how this form of advertisement would be retained, or how flashing, intermittently lit or animated images would be prevented. Similarly, although the appellant indicated a willingness to accept a condition limiting the lighting levels, no specific wording was provided with the appeal.

16. I accept that the proposal would improve the facilities and information available to the traveling public. However, in view of the inaccuracies relating to the site address, the limited information submitted with the application, the inconsistencies between what has been applied for and how it was described in the grounds of appeal, and the absence of suggested conditions, I cannot be satisfied that the proposal would not adversely affect the character and appearance of the Conservation Area or the setting of the Listed Building.
17. I therefore conclude that the proposed advertisements would be harmful to public amenity. They would also be contrary to Policies Q17, Q20 and Q22 of the Lambeth Local Plan and the Council's Advertising and Signage Guide which seek to restrict advertisements in sensitive locations.

Conclusions

18. For the reasons set out above I conclude that both appeals should be dismissed.

Sheila Holden

INSPECTOR