

Appeal Decision

Site visit made on 1 August 2017

by Oliver Blower MA (T&CP)

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 23 August 2017

Appeal Ref: APP/V5570/Z/17/3176169

Public Telephones 5m From Talk Moneywise, 179 Holloway Road. 7m From Holloway Road. Holloway Road, Islington, London N7 8LX

- 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 Matthew Coe (New World Payphones) against the decision of the Council of the London Borough of Islington.
 - The application Ref P2017/0504/ADV, dated 7 February 2017, was refused by notice dated 28 March 2017.
 - The advertisement proposed is described as “internally illuminated digital panel as integral part of Telephone Kiosk, digital panel to be facing north-westerly direction in the direction of contraflow traffic as per the photos supplied”.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed advertisement on 1) visual amenity, with particular regard to whether it would preserve or enhance the character or appearance of the St Mary Magdalene Conservation Area (CA) and, 2) public safety.

Procedural Matters

3. The Regulations and the National Planning Policy Framework both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Whilst the Council has drawn my attention to the policies it considers relevant to this appeal, and I have taken them into account as a material consideration, the Council’s policies have not, by themselves, been decisive.

Reasons

Visual Amenity

4. The appeal relates to the location of two back-to-back telephone kiosks on the pavement of Holloway Road, close to the junction with Palmer Place, and near to commercial premises. The kiosks have some small unilluminated advertisements displayed on their sides.
 5. The appeal concerns the display of an internally illuminated digital panel approximately 1.65 metres high by 0.92 metres wide, which would face in a north-westerly direction. It would be affixed to one side of a new telephone
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- kiosk of a more contemporary design which would replace the two existing kiosks.
6. The immediate area is primarily characterised by traditional terraced shops constructed of stone and brick, many of which retain their original pilasters and console brackets. I note that there are a small number of internally illuminated advertisements on bus shelters further north-west, and illuminated advertising related to the petrol filling station on the opposite side of the road. Nevertheless, illuminated advertisements are largely confined to shop fronts, giving a customary appearance to this part of Holloway Road, which in turn contributes positively to the traditional character and appearance of this part of the CA.
 7. The nature of a digital display is that it must emit light to produce an image, rather than a flat image which passively reflects natural or artificial light. This form of illumination would give the proposed advertisements an uncharacteristically bright and modern appearance during both the day and night, where there is currently little discernible artificial lighting at location of the kiosks.
 8. I note that the advertisement would be controlled by light sensor to monitor ambient light and in darkness the illumination would be restricted to a maximum of 280cd/m². Nonetheless, the illuminated advertisement would necessarily be brighter than the unilluminated advertisements presently on the kiosks – particularly during the day. It is this introduction of illumination where there is currently none that is at odds with the traditional character of the CA.
 9. As a result, I conclude that the location, scale, and illumination of the proposed advertisement would fail to preserve or enhance the traditional character and appearance of the CA, and thus would be detrimental to the interests of visual amenity.
 10. As far as such factors are material, the advertisement is therefore contrary to policy CS9 of the Islington Core Strategy 2011 which seeks, amongst other things, that the historic significance of Islington's unique heritage assets and historic environment will be conserved and enhanced whether designated or not. It is also contrary to policies DM2.1, DM2.3 and DM2.6 of Islington's Local Plan Development Management Policies 2013 (DMP) which seek to ensure, amongst other matters, that all forms of development are required to be of high quality and make a positive contribution to the local character and distinctiveness of an area; new developments within Islington's conservation areas and their settings are required to be of high quality contextual design so that they conserve or enhance a conservation area's significance; and advertisement should be of a high quality and sensitive to its visual appearance in relation to its siting and the surrounding street scene, especially in the case of conservation areas.
 11. This finding of harm must carry considerable importance and weight. I am satisfied that the harm caused by the advertisement to the heritage asset would be less than substantial due to the small scale of the advertisement, but nevertheless permission should only be granted if public benefits would outweigh the harm.
 12. The appellant suggests that the advertisement would form an integral part of a new telephone kiosk which, amongst other things, would have an enhanced

aesthetic and improved accessibility. However, whilst a public call box may be permitted development, the developer would first need to apply to the Council for a determination as to whether the prior approval of the authority would be required as to the siting and appearance of the structure. I have no evidence before me that prior approval has been sought or granted, and in any event the appeal deals only with advertisement consent. I therefore give the benefit of the replacement structure only very limited weight. Consequently the benefit does not outweigh the harm in relation to the main issue in this appeal.

Public Safety

13. Although the untitled location plan shows the direction of the advertisement facing south-east, towards oncoming traffic, it is clear from the description and the appellant's grounds of appeal that the advertisement is intended to face north-west. Subject to the advertisement facing north-west, it would not be visible to drivers approaching the signalised junction from the south-east. Moreover, it would be located a sufficient distance from the junction and on the opposite side of the road, so that it would not be readily visible to drivers traveling from the north-west, and thus would not cause undue distraction.
14. The brightness of the display, the frequency with which adverts would change, the method of change between adverts, and the capacity to display moving images would all have the potential to cause driver distraction and have a detrimental effect on the safe use of the highway. It would thus be necessary to impose conditions in order to control these aspects of the proposal.
15. The location plan does not show the positioning of the advertisement in detail, including its distance from the edge of the kerb. The advertisement could pose an obstacle to cyclists on the carriageway if it were to be located too close. However, although the advertisement is moderately wider than the kiosks it would replace, the footway is sufficiently wide to allow the advertisement to be located away from the edge of the carriageway whilst maintaining adequate width on the footway. Its distance away from the kerb could be secured by condition.
16. As a result, I find that the advertisement would not cause unacceptable harm to public safety. Thus, in this regard only, the advertisement is in accordance with policies DM2.6 and DM8.2 of the DMP which seek to ensure, amongst other matters, that advertisements which require consent must not cause a public safety hazard and do not cause a hazard to pedestrians or road users; and development proposals are required to have no negative impacts on the safe and efficient operation of transport infrastructure.

Conclusion

17. Notwithstanding that I have found that the advertisement would not cause unacceptable harm to public safety, subject to conditions, this does not outweigh the harm I have identified in respect to visual amenity.
18. Consequently, for the reasons given above, and having had regard to all other matters raised, I conclude that the proposed advertisement would be detrimental to the interests of visual amenity. I therefore dismiss the appeal.

Oliver Blower Appointed Person