



Appeal Decisions

Site visit made on 10 June 2019

by David Fitzsimon MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2019

Appeal A Ref: APP/X5990/Z/18/3216677

Junction of Victoria Street and Lower Belgrave Street (1 Lower Belgrave Street outside Majestic Wine) London SW1W 0NH

- 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 British Telecommunications Plc against the decision of Westminster City Council.
 - The application Ref 18/06992/ADV, dated 17 August 2018, was refused by notice dated 16 October 2018.
 - The advertisements proposed are 'two digital 55 inch LCD display screens, one on each side of the InLink unit'.
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Appeal B Ref: APP/X5990/Z/18/3212667

Outside 115 Buckingham Palace Road, London SW1W 9SL

- 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 British Telecommunications Plc against the decision of Westminster City Council.
 - The application Ref 18/04586/ADV, dated 28 June 2018, was refused by notice dated 10 August 2018.
 - The advertisements proposed are 'two digital LED display screens, one on each side of the InLink'.
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Appeal C Ref: APP/X5990/Z/18/3212829

Outside 126 Buckingham Palace Road, London SW1W 9SA

- 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 British Telecommunications Plc against the decision of Westminster City Council.
 - The application Ref 18/04588/ADV, dated 28 June 2018, was refused by notice dated 13 August 2018.
 - The advertisements proposed are 'two digital LED display screens, one on each side of the InLink'.
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Appeal D Ref: APP/X5990/Z/18/3216657

Outside Belgravia Police Station, Buckingham Palace Road, London SW1W 9SU

- 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 British Telecommunications Plc against the decision of Westminster City Council.
 - The application Ref 18/06994/ADV, dated 17 August 2018, was refused by notice dated 16 October 2018.
 - The advertisements proposed are 'two digital 55 inch LCD display screens, one on each side of the InLink unit'.
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Appeal E Ref: APP/X5990/Z/18/3218200

Outside The Post Office, 6 Eccleston Street, near junction with Eccleston Place, London SW1W 9LT

- 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 British Telecommunications Plc against the decision of Westminster City Council.
 - The application Ref 18/07412/ADV, dated 29 August 2018, was refused by notice dated 16 October 2018.
 - The advertisements proposed are 'two digital 55-inch LCD display screens, one on each side of the InLink unit'.
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Appeal F Ref: APP/X5990/Z/18/3218202

Pavement on Colonnade Walk, outside 125 Buckingham Palace Rd, London SW1W 9SH

- 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 British Telecommunications Plc against the decision of Westminster City Council.
 - The application Ref 18/07414/ADV, dated 29 August 2018, was refused by notice dated 16 October 2018.
 - The advertisements proposed are 'two digital 55-inch LCD display screens, one on each side of the InLink unit'.
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Appeal G Ref: APP/X5990/Z/18/3218396

Outside No. 8 Barclays Bank, junction of West Halkin Street, London SW: 8JE

- 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 British Telecommunications Plc against the decision of Westminster City Council.
 - The application Ref 18/07590/ADV, dated 31 August 2018, was refused by notice dated 29 October 2018.
 - The advertisements proposed are 'two digital 55-inch LCD display screens, one on each side of the InLink unit'.
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Appeal H Ref: APP/X5990/Z/18/3218586

Outside No. 11 Haymarket, junction of Orange Street, London SW1Y 4BP

- 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 British Telecommunications Plc against the decision of Westminster City Council.
- The application Ref 18/07543/ADV, dated 31 August 2018, was refused by notice dated 6 November 2018.
- The advertisements proposed are 'two digital 55-inch LCD display screens, one on each side of the InLink unit'.

Appeal I Ref: APP/X5990/Z/19/3222945

Outside 47 Whitcomb Street, London WC2H 7DH

- 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 British Telecommunications Plc against the decision of Westminster City Council.
 - The application Ref 18/10317/ADV, dated 5 December 2018, was refused by notice dated 11 January 2019.
 - The advertisements proposed are 'two digital 55 inch LCD display screens, one on each side of the InLink unit'.
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Decisions

Appeal A Ref: APP/X5990/Z/18/3216677

1. The appeal is dismissed.

Appeal B Ref: APP/X5990/Z/18/3212667

2. The appeal is dismissed.

Appeal C Ref: APP/X5990/Z/18/3212829

3. The appeal is dismissed.

Appeal D Ref: APP/X5990/Z/18/3216657

4. The appeal is allowed and express consent is granted for the display of two digital LCD display screens, one on each side of the InLink unit as applied for. 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 conditions:
 - 6) The advertisements displayed shall be a series of static images, which individually feature no moving elements, dynamic displays or motion pictures. The speed of change between one static image and the next shall be no quicker than 12 seconds.

Appeal E Ref: APP/X5990/Z/18/3218200

5. The appeal is dismissed.

Appeal F Ref. APP/X5990/Z/18/3218202

6. The appeal is dismissed.

Appeal G Ref. APP/X5990/Z/18/3218396

7. The appeal is dismissed.

Appeal H Ref. APP/X5990/Z/18/3218586

8. The appeal is dismissed.

Appeal I Ref. APP/X5990/Z/19/3222945

9. The appeal is dismissed.

Procedural Matters

10. In each case, the proposal relates to advertisement consent for digital display screens which would be integrated within the two main sides of an 'InLink' telecommunications unit. I understand that the applications for 'prior approval' for the associated 'InLink' installations were refused by the Council and the subsequent appeals have been withdrawn. On this basis, I have considered the merits of the advertisements, mindful that in reality, they could only be displayed if permission was forthcoming for the unit they would be fixed to.
11. Many of the appeal sites are either located within or close to Conservation Areas and/or close to statutorily listed buildings. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Section 66 of the same Act requires special regard to be paid to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest that they possess. The Framework directs that when considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation and that significance can be harmed or lost through development within their setting. The Framework also directs that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Main Issues

12. The main issues are as follows:
- The effect of the proposal on public safety, with particular regard to highway safety (Appeals D and G);
 - The effect of the proposal on amenity (all Appeals), including the effect on heritage assets (Appeals A, B, C, E, F, G, H and I).

Reasons

13. The proposed digital display screens measure 121cm tall and 69cm wide. According to the submitted details, they would be integrated within and sit either side of a freestanding InLink installation of a contemporary style which measures 290cm tall, 89cm wide and 28cm deep.

Appeal A

14. The proposed advertisements would be integrated within an InLink which would sit on the outer edge of a relatively narrow pavement. It would be in line with an existing telephone box (which is would be removed if the InLink was installed), several signs and a lamppost. As a result, it would not materially obstruct the established pedestrian flow along this side of the pavement.
15. Notwithstanding this, the submitted details show that the InLink within which the digital LCD display screens would be integrated would be tall. The screens themselves would be almost as wide as the structure and they would occupy its upper section, which means that they would be elevated within the street.
16. Other than the telephone box I have referred to, there is a noticeable absence of wide and large pieces of street furniture along this particular part of Lower Belgrave Street. This makes a noticeable and positive contribution to its overall character and appearance, and also that of the wider Grosvenor Gardens Conservation Area within which it sits.
17. Whilst the commercial properties along Lower Belgrave Street have illuminated advertisements to their fascias, these do not project into the street like the advertisements before me, which would amount to an isolated and overly dominant feature, taller than the phone box to be removed. The existing phone box has advertisements fixed to it but they are not illuminated and the illumination of the advertisements proposed would only serve to exacerbate their prominence.
18. For these reasons, I find that the proposed digital LCD display screens would harm the character and appearance of the Grosvenor Gardens Conservation Area and the amenities of the immediate locality.

Appeal B

19. The proposed advertisements would be sited on the outside edge of a wide pavement located on a main thoroughfare. The InLink within which the digital display screens would be set would replace two existing BT phone boxes, which appear quite isolated along this section of pavement. However, the InLink would be taller and the illuminated advertisements would occupy the upper two thirds or so of the structure.
20. The advertisements would be sited to the north-east of Nos. 92-98 Buckingham Palace Road, across what is a wide and very busy highway with a central reservation. As a result, I am satisfied that they would not harm the setting of these Grade II Listed Buildings or that of the Belgravia Conservation Area within which these buildings sit. Nevertheless, there is a noticeable absence of free standing illuminated advertisements along this particular section of pavement and I consider that the proposed advertisements, because of their scale and overall height, combined with the isolated position of the unit to which they would be attached, would appear overly prominent and unduly dominant.
21. I therefore find that the proposed digital display screens would harm the character and appearance of this particular part of the street scene, thereby harming amenity.

Appeal C

22. The proposed advertisements would be sited on the same side of the pavement of Buckingham Palace Road as the Appeal B proposal, slightly further to the south, beyond the junction with Eccleston Street. Again, the InLink within which the digital display screens would be set would replace two existing BT phone boxes which sit back to back. However, it would be taller and again, the illuminated advertisements would occupy the upper two thirds or so of the structure. In addition, the proposed advertisements would be seen alongside the tall digital advertisements that are fixed to several nearby bus shelters, further to the east along this side of Buckingham Palace Road. In this context, I consider that the proposed advertisements would add to visual clutter on this side of the pavement.
23. The advertisements would be sited slightly to the north-east of Nos. 126-158 Buckingham Palace Road, which sit on the opposite side of what is a wide and busy highway. As a result, and bearing in mind the context of the other street furniture I have described, I am satisfied that the proposed advertisements would not harm the setting of these Grade II Listed Buildings or the setting of the adjacent Belgravia Conservation Area, within which these buildings sit.
24. Nevertheless, the proposed advertisements, because of their scale and elevated position, would appear overly prominent within the immediate street scene and they would add to advertisement clutter, thereby harming amenity.

Appeal D

25. The proposed advertisements would be sited on the outer edge of the pavement, in line with existing directional signage and lampposts. The InLink would replace an existing telephone box and although it would be larger and the digital screens themselves would be elevated, the pavement is very wide, whilst the street scene and buildings within this particular part of Buckingham Palace Road are unremarkable. On this basis, I am satisfied that the proposed advertisements would have no materially greater effect on amenity than the telephone box to be replaced.
26. The Council has suggested that the advertisements would lead to driver distraction. Whilst they would be located close to the highway edge of the pavement and the images to be displayed would change intermittently and would be illuminated, other digital advertisements are attached to some of the bus shelters along Buckingham Palace Road as I have explained. No compelling evidence has been advanced which indicates that these existing digital advertisements have resulted in driver distraction and have directly led to accidents. On this basis, I see no reason why the proposed advertisements would cause such a danger.
27. I therefore find that the proposed advertisements would not harm amenity or pose an undue risk to public safety.

Appeal E

28. The proposed screens would be set within an InLink that would be installed on the outer edge of the pavement, in line with a litter bin, lampposts and trees. It would replace an existing telephone box.

29. There is a noticeable absence of other large items of street furniture and illuminated free standing advertisements along this part of Eccleston Street, which is home to attractive period buildings. This makes a positive contribution to the overall character and appearance of the Belgravia Conservation Area within which the proposed advertisements would sit.
30. Although thinner, the InLink would be noticeably taller than the telephone box, which does not have digital advertisements attached to it. The proposed digital display screens would be set within the upper section of the structure which means that they would enjoy an elevated and prominent position.
31. The shops and other commercial properties along this section of Eccleston Street have illuminated advertisements, including hanging signs. However, I saw no freestanding advertisements of a similar scale to those proposed, which would be far more prominent than the telephone box which would be replaced.
32. As a result, I find that the digital display screens would be an unduly dominant and overly prominent feature within the street scene and the adverse visual effect would harm the character and appearance of the Belgravia Conservation Area. The proposal would therefore harm amenity.

Appeal F

33. The proposed advertisements would sit within an InLink which would be sited on the outer edge of the pavement, in line with existing street furniture including a litter bin, lampposts and bus shelters. It would replace an existing telephone box which has a panel advertisement fitted to its southern side.
34. The InLink would be taller than the phone box to be replaced and the digital display screens would be fitted to the upper section. Further, the installation and advertisements would be seen alongside the digital display screens fitted to the nearby bus shelter.
35. The height and scale of the proposed digital display screens would introduce a prominent feature to this particular part of the street scene. When seen alongside the display screens fitted to the nearby bus shelter, they would result in undue visual clutter and would harm the appearance of this particular part of the street scene.
36. The Council has expressed concern that the advertisements would harm the setting of several statutorily Listed Buildings, including Victoria Library, St Michael's Hall and Victoria Coach Station, along with that of the Belgravia Conservation Area within which they are located. However, these buildings sit on the opposite side of what is a wide and bustling highway. Given the generous separation distance involved, I am satisfied that the proposal would not harm the setting of these heritage assets.
37. I therefore find that although the proposed advertisements would not harm the setting of any heritage assets, they would harm the particular section of the street scene within which they would sit.

Appeal G

38. The proposed advertisements would be fixed to an InLink which would replace an existing telephone box located on the outer edge of the pavement, between

two sets of low level cycle racks. The position of the existing telephone box is somewhat exposed given the wide pavement and open nature of the junction of West Halkin Street and Lowndes Street, which makes a positive contribution to the overall character of the Knightsbridge Conservation Area.

39. The InLink upon which the digital display screens would be sited would be taller than the existing phone box and they would occupy the upper two thirds or so of the structure. Given the scale of the InLink and associated screens, combined with the context I have described, the illuminated advertisements would appear as an isolated and prominent feature within the street scene.
40. In addition, I consider that the overall scale of the digital advertisements, combined with their exposed position, would detract from the fine and largely uninterrupted view of the imposing Grade II Listed Buildings of Nos. 2-12 Halkin Arcade from the south-west at the junction with Lowndes Road, thereby harming their setting. This adverse impact would be materially greater than that inflicted by the existing telephone box.
41. As explained, the proposed advertisements would be of a significant size, they would be sited close to the highway and they would transmit images that change intermittently. However, I am mindful that a range of digital advertisements are present within the Borough which are positioned close to highways. No compelling evidence is before me which supports the Council's suggestion that the advertisements proposed would pose an undue distraction for passing motorists. On this basis, I am satisfied that they would not.
42. I therefore find that although the proposal would not harm public safety, it would harm the setting of heritage assets, thereby harming amenity.

Appeal H

43. The proposed digital display screens would be fitted to an InLink installation that would replace a traditional telephone box which sits broadly in the middle of the pavement. The InLink would be taller than the telephone box, which does not have any sizeable illuminated advertisements attached to it. The digital display screens would occupy the upper two thirds of the structure, thereby emphasising the additional height.
44. I am mindful of the presence of a digital display fitted to a bus shelter further north-west along Haymarket. However, other than the existing telephone box I have referred to, this particular section of pavement from Orange Street southwards has an open feel, which makes a positive contribution to the character and appearance of the street scene and the St James' Conservation Area within which it sits. The telephone box would be replaced with a larger structure and the LCD screens would only exaggerate its greater prominence within the street scene.
45. The effect would result in an isolated and overly dominant feature which, in my view, would harm the setting of the St James' Conservation Area and views into the Haymarket Conservation Area immediately to the north. Given their prominence, I also consider that the proposed digital display screens would harm the setting of the Haymarket Theatre, a Grade I Listed Building which sits to the south-east. The advertisements would particularly harm views of its projecting pillared entrance, when viewed from the junction of Haymarket and

Orange Street. The proposed digital advertisements would also harm the setting of the Grade II Listed Burberry's Building which sits immediately on the opposite side of Orange Street, when viewed from the south. These harmful effects would be much greater than that caused by the existing telephone box.

46. I therefore find that the proposed advertisements would harm the character and appearance of the street scene and the setting of heritage assets, thereby harming amenity.

Appeal I

47. The proposed LCD display screens would be integrated within an InLink installation that would be sited to the north-west of a telephone box which is scheduled for removal. The installation would sit on the outer edge of the pavement. I noticed several other telephone boxes along this side of the street along with a large Theatre Ticket concession. They give the immediate surroundings a somewhat cluttered appearance and detract from the overall character and appearance of the Haymarket Conservation Area. The InLink would be taller than the other telephone boxes which would remain and the digital displays would only emphasise the additional height.
48. As a result, the digital display screens would be a dominant feature within the street scene and would exacerbate the cluttered appearance. This would further harm the setting of the Haymarket Conservation Area within which the screens would sit. Although I am satisfied that the screens would have no greater effect on the Grade II Listed Prince of Wales Theatre than the nearer telephone boxes and concession stand I have referred to, they would also have a much greater effect on the setting of the adjacent Grade II Listed Building, No. 47 Whitcomb Street, than the existing telephone box.
49. I therefore find that the proposed advertisements would harm the character and appearance of the street scene and the setting of heritage assets, thereby harming amenity.

Other considerations (all cases)

50. The Appellant Company has explained that the InLink offers a range of public benefits, including free ultrafast Wi-Fi with speeds up to 1 Gb per second within 100m of each unit, along with touchscreen tablets to access Council services, BT's phone book, maps and directions. I also appreciate that the InLink is of an accessible design including hearing induction loops, braille embossed and TalkBack functionality. I understand that all InLinks are powered by 100% renewable energy, each would include Council content on screen to promote local initiatives, news, and events and hyper-local content allowing each InLink to act as a community notice board. In addition, each InLink provides secure power-only USB ports for rapid device charging, free phone calls to UK mobile, local or national numbers, including the option to plug in personal headphones for more privacy, a 999 call button with location sharing two-press approach to limit accidental activation and the opportunity to integrate additional environmental sensors.
51. However, it seems to me that most of the benefits apart from the display of public information relate to the InLink kiosk itself rather than the digital display screens. Whilst I note the assertion that the revenue generated from the

digital advertising is key to the viability of the InLink network, the benefits outlined do not outweigh the harm identified in each of the cases I have found to be objectionable.

52. Finally, the Appellant Company refers to several Appeal decisions and Local Authority decisions relating to similar installations and proposals for digital advertisements. However, I have considered each proposal before me on its individual merits and against the specific circumstances and context of each case.

Overall Conclusions

53. I conclude that none of the appeal proposals would harm public safety. In this respect, they do not conflict with policy S41 of the adopted Westminster City Plan (WCP) or policies TRANS2 and TRANS3 of the adopted City of Westminster Unitary Development Plan (UDP) in so far as the development plan is a material consideration.
54. Appeal proposals A, B, C, E, F, G, H and I would harm the character and appearance of the local area, contrary to policy S28 of the WCP and policies DES1, DES8 of the UDP, whilst appeal proposals A, E, G, H and I would also harm the setting of heritage assets. Whilst the harm to the heritage assets would be less than substantial as directed by the Planning Practice Guidance, these proposals fail the statutory tests outlined in paragraph 11 above and they conflict with policy S25 of the WCP and policies DES9 (Conservation Areas) and DES10 (Listed Buildings) of the UDP, in so far as the development plan is a material consideration. Each of these proposals would therefore harm amenity.
55. Appeal proposal D would not cause harm to the character and appearance of the local area and therefore amenity, so it does not conflict with any of the development plan policies referred to above in so far as they are material to the determination of the appeal.
56. The arguments advanced by the Appellant Company in favour of the digital display screens, including the public benefits, do not outweigh the harm associated with the proposals I have found objectionable. On this basis, with the exception of Appeal D which I do find acceptable, the appeals do not succeed.

Conditions relating to Appeal D

57. In addition to the standard conditions set out in the Regulations, the Council has suggested one other in the event the appeal succeeds, which relates to the nature of the advertisements to be displayed and their speed of change. I consider this to be reasonable in order to ensure a visually acceptable form of development and to minimise the potential for driver distraction.
58. In allowing this appeal, I shall impose the additional condition accordingly.

David Fitzsimon

INSPECTOR