



Appeal Decision

Site visit made on 29 July 2019

by C J Ford BA (Hons) BTP MRTPI

a person appointed by the Secretary of State

Decision date: 15th August 2019

Appeal Ref: APP/X5990/Z/18/3216151

Outside 45 Porchester Road, London W2 5DX

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ('the Regulations') against a refusal to grant express consent.
 - The appeal is made by Mr Neil Scoresby (British Telecommunications plc) against the decision of City of Westminster Council.
 - The application Ref 18/07042/ADV, dated 17 August 2018, was refused by notice dated 15 October 2018.
 - The advertisements proposed are described as 'Two digital 55 inch LCD display screens, one on each side of the InLink unit'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the submitted appeal statement the appellant requested that an associated prior approval appeal in relation to the installation of the InLink unit be assessed together with this advertisement appeal. However, following the judgment in *Westminster CC v SSHCLG & New World Payphones Ltd* [2019] EWHC 176 (Admin) and as set out in a letter dated 6 March 2019, the prior approval appeal has since been withdrawn by the appellant. Consequently, only the matter of advertisement consent is considered in this decision letter. Separate planning permission would be required for the installation of the InLink unit.
3. The Council has subsequently requested that the advertisement appeal be held in abeyance pending any further decision on the required planning application for the InLink unit. However, as the display of advertisements is controlled through a separate approval process and full details of the supporting InLink unit have been provided, the advertisement element of the proposed scheme may progress independently.
4. The proposed digital display screens would be 1.21m high and 0.69m wide. They would be integrated on each face of a 2.90m tall and 0.89m wide InLink unit. Aside from the absence of a diagonal slither of the lower section on one side, the 0.28m deep unit would be a freestanding monolith form. Instead of the usual five years, consent is sought for a period of ten years.
5. The Council's reasons for refusal referred to the potential for the display of (dynamic) moving images. It is appreciated the original application documents

made it clear that a series of static images would be displayed. The appeal has therefore been determined on that basis.

6. The parties have drawn attention to development plan policies, national policy and local guidance which they consider are relevant to the appeal. Whilst Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to advertisements, the policies and guidance have been taken into account, so far as they are material, in accordance with the Regulations.

Main Issues

7. The main issues are the effect of the proposed advertisements on;
 - i. the visual amenity of the area and,
 - ii. public safety with particular regard to pedestrian movement.

Reasons

i. Visual Amenity

8. The appeal site is located within the Bayswater Conservation Area (CA), a designated heritage asset where special attention must be paid to the desirability of preserving or enhancing the character or appearance of the CA. The special interest of the CA is largely derived from areas of nineteenth century architecture of predominantly stuccoed terraces of housing.
9. The boundary of the CA generally follows the centre of Porchester Road but unusually at this point it extends to include the West London Buddhist Centre, a modern building that forms the backdrop to the appeal site on the western side of the road. Furthermore, the land to the north of the Buddhist Centre is within the Westbourne Conservation Area whilst the land to the south is within the Queensway Conservation Area.
10. To the south of the Buddhist Centre and faced in Portland stone is the impressive Grade II listed Porchester Centre. To the east are the fine terraces of Gloucester Terrace and the north side of Porchester Square which are archetypal of the Bayswater CA. Nos 9 to 31 Porchester Square are Grade II listed.
11. Owing to the side-on orientation to the road of the unit and despite the existence of two nearby large traffic signs, each display screen would be facing and prominently visible in the respective approach along Porchester Road.
12. The buildings in the immediate vicinity have very limited signage attached. The Buddhist Centre simply has its name displayed in low key small lettering above the ground floor windows. The Porchester Centre has 'Public Library' and 'Porchester Hall' set out in plain lettering alongside some small ground floor information boards. There is a distinct absence of commercial advertisements attached to street furniture. At the time of the site visit and contrary to the statement on the original application form, the existing telephone kiosk in front of the Buddhist Centre was not used for advertisements.
13. Further to the north, on the opposite side of the road, there is a terrace with commercial units on the ground floor. The units have fascia signage alongside the occasional canopy and small projecting sign. The fairly subtle advertisement schemes are reflective of the historic character of the upper

floors of the terrace and in some cases the traditional shop fronts. There is similarly a distinct absence of commercial advertisements attached to fixed street furniture and digital screens are not a feature. The proposal would therefore introduce a very different form of advertisement display to the locality.

14. Given this context and through a combination of their size, display of illuminated sharply defined changing static digital images, prominent situation and orientation in the street scene and their relatively high-level positioning on the freestanding InLink unit, the proposed screens would appear as unduly strident and incongruous features. They would detract from the character and appearance of the CA, the setting of the neighbouring Conservation Areas and the setting of the nearby listed buildings.
15. The appellant has drawn attention to advertisements granted express consent by the Council and on appeal in other sensitive areas of Westminster with regard to designated heritage assets. In those cases the digital screens relating to telephone kiosks and bus shelters were larger than those proposed.
16. However, they are not directly comparable as the perception of the proposed screens would be materially different. Although smaller in area, the InLink screens would commence further above pavement level and extend to a greater height than the consented schemes. As a consequence, they would have a more high-level presence in the street scene. Furthermore, owing to the monolith design of the InLink unit, they would appear as freestanding advertisements and thereby have a different character. The appeal scheme has been duly considered on its own merits and having regard to its specific context in this particular part of Porchester Road.
17. The benefits of the proposed screens are acknowledged including a public messaging facility to provide real time updates and with a proportion of the annual content offered to the Council and to local community groups in order to promote initiatives and events. It is also understood the InLink unit would lead to the removal of the existing telephone kiosk in front of the Buddhist Centre. Nevertheless, the benefits would not outweigh the identified harm to the visual amenity of the area. Additionally, whilst conditions could ensure the screens only displayed a series of static images, as applied for, they could not overcome the identified harm.
18. It is therefore concluded the proposed advertisements would have an unacceptably harmful effect on the visual amenity of the area. They would fail to preserve or enhance the character or appearance of the CA. They would harm the setting of the neighbouring Conservation Areas and the setting of the nearby listed buildings. They would conflict with Policy S25 of Westminster's City Plan 2016 which sets out that Westminster's extensive heritage assets will be conserved, including its conservation areas and the setting of its listed buildings and conservation areas. They would also conflict with Policy DES 8 of the City of Westminster Unitary Development Plan 2007. The policy seeks to ensure signs and advertisements are sensitively located in the street scene and to normally resist advertisements on street furniture, especially in conservation areas or adjacent to listed buildings. The policy also seeks to resist LED screens.

ii. Public Safety

19. The proposed InLink unit and integrated digital screens would occupy space that is directly alongside the southern rear panel of the existing telephone kiosk. The physical presence of the proposal would therefore not reduce the width of the footway to an unacceptable degree or alter existing pedestrian movement.
20. The Council's concern that it would have an adverse impact upon direct, safe and convenient pedestrian movement appears to be related to the use of the unit's multi-function facilities, with people potentially stood around the structure. Such a concern would be a matter to be considered in the determination of a planning application for the InLink unit. It is therefore concluded the proposed advertisements would not have an unacceptably harmful effect on public safety with particular regard to pedestrian movement.

Conclusion

21. Notwithstanding the finding on public safety, the identified harm in respect of the visual amenity of the area is an overriding consideration in this case. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

C J Ford

APPOINTED PERSON