



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/18/3211575

Outside Nos 33-35 Westbourne Grove, London W2 4UA

- 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 British Telecommunications Plc against the decision of City of Westminster Council.
 - The application Ref 18/04528/ADV, dated 31 May 2018, was refused by notice dated 20 July 2018.
 - The advertisements proposed are described as 'Two digital LED display screens, one on each side of the InLink'.
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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Ltd* [2019] EWHC 176 (Admin) and as set out in a letter dated 6 March 2019, the prior approval appeal has since been withdrawn by the appellant.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.
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 Issue

7. The main issue is the effect of the proposed advertisements on the visual amenity of the area.

Reasons

8. The appeal site is located within the Westbourne 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 nineteenth century residential terraces in a north-south grid pattern located between Westbourne Grove and Talbot Road. The character of Westbourne Grove itself is a Victorian shopping street with commercial units occupying the ground floor level.
9. The proposed InLink unit would be positioned close to the pavement edge on the south side of Westbourne Grove. Diagonally opposite, on the north side of the street, No 26 Westbourne Grove is a Grade II listed former theatre. Its ornate Italianate style façade makes a particularly positive contribution to the character and appearance of the locality.
10. Whilst the units to the east of the site have sizeable fascia signs, the signage of the units that form a backdrop to the site and which are located opposite are particularly restrained. For the most part, they are set behind the glazed apertures alongside small external projecting signs.
11. The two existing telephone kiosks at the appeal site each have a vinyl advertisement attached to a glazed surface. However, one faces the retail units on the south side of the street and the other faces into the road. A bus shelter partly sited in front of No 26 also has two commercial advertisement panels but they similarly face into the road. Consequently, whilst there are examples of advertisements attached to street furniture, including a cycle hire station totem opposite No 26, they are primarily orientated so as to minimise long distance views and digital displays are not a feature of the locality.
12. In contrast and owing to the side-on orientation to the road of the unit, each display screen would be facing and prominently visible in long distance views in the respective approach along the street.
13. 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. Despite the busy commercial nature of the area, they would detract from the character and appearance of this particular part of the CA and the setting of the nearby listed building.
14. 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. Of particular note is a double-sided

digital display panel at one end of a bus shelter located outside of No 110 Westbourne Grove, further to the west in the CA, (Council Ref: 16/03494/ADV). In those cases the digital screens relating to telephone kiosks and bus shelters were larger than those proposed.

15. 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 Westbourne Grove.
16. 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 replace the two existing kiosks with the vinyl advertisements attached. 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.
17. 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 and harm the setting of the nearby listed building. 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. 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.

Conclusion

18. 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