



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/18/3218247

Outside Graham and Green, 36 Porchester Road, London, W2 6ES

- 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 18/07270/ADV, dated 24 August 2018, was refused by notice dated 23 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Ltd* [2019] EWHC 176 (Admin) and as set out in a letter dated 6 March 2019, the prior approval appeal has since been withdrawn by the appellant.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. There are inconsistencies within the submitted plans in respect of the position of the proposed InLink unit. The appeal has been determined on the basis of the position shown in Drawing Numbers 001 and 003 Revision A, rather than Drawing Number 002 Revision A. Furthermore, instead of the usual five years, consent is sought for a period of ten years.
5. 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.

6. 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.
7. 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

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

Reasons

9. 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. However, the area surrounding the appeal site is characterised by a local shopping area within the CA.
10. The InLink unit would be positioned close to the pavement edge on the east side of Porchester Road. Owing to the side-on orientation to the road of the unit and despite the existence of nearby trees, each display screen would be facing and prominently visible in the respective approach along the street.
11. On the eastern side of Porchester Road, forming a backdrop to the proposed unit, there is a modern retail complex which is part of The Colonnades that was renovated in 2015. The complex has a highly restrained advertisement scheme which is most noticeable on the Bishop's Bridge Road elevation. Instead of the usual external fascia signage, the signs are set behind the large glazed apertures. The restraint similarly applies to the Porchester Road elevation with notably small ground floor projecting signs of the occupying retail operators, two recycling centre information panels and a simple large 'Waitrose' name sign at the northern end.
12. On the western side of the road there are more traditional retail units with typical fascia and projecting signs. However, on both sides of the street there is a distinct absence of commercial advertisements attached to fixed street furniture and digital screens are not a feature. Indeed, it is apparent there have been significant efforts to de-clutter the public realm of such hard furniture, in particular telephone kiosks and to soften the street scene through planting new trees on the eastern side of the road and attaching sizeable hanging baskets to the lamp posts. The proposal would therefore introduce a very different form of advertisement display to the locality and generally run counter to the natural enhancements.

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.
14. The appellant has drawn attention to advertisements granted express consent 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.
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 Porchester Road.
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. 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. 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. 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. 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