



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/18/3218241

Outside Whiteleys Department Store, 124 Queensway, Bayswater, London W2 4YN

- 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 18/07268/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Ltd* [2019] EWHC 176 (Admin) and as set out in a letter dated 6 March 2019, the prior approval appeal has since been withdrawn by the appellant.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. 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 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 Queensway 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. As a whole, the linear CA has a mixed character but the character of the central portion largely derives from its commercial uses.
9. The area surrounding the appeal site reflects this commercial character with the ground floor of the mid-twentieth century development on the east side of the road occupied by retail units. The west side of the road is dominated by the early twentieth century ornate Portland stone fronted Whiteleys store which is Grade II listed. The proposed InLink unit would be positioned in front of Whiteleys store and it is understood it would replace the two existing telephone kiosks on the north side of Porchester Gardens. At the time of the site visit and unlike as stated on the application form, the two kiosks were not used for advertisements.
10. The retail units on the east side of the road have sizeable fascia signage and small projecting signs, some of which are illuminated. However, apart from functional information signs, advertisements in this part of the Queensway street scene are generally confined to the shop fronts and there is a notable absence of commercial advertisements attached to street furniture. Digital displays are also not a feature. The proposal would therefore introduce a very different form of advertisement display to the locality.
11. The appellant has drawn attention to Appeal Ref: APP/X5990/Z/16/3156856 which granted express consent for a double-sided digital display panel at one end of a bus shelter in front of Whiteleys store. It is apparent the decision was made in the context that in 2016, the shop units in the Queensway frontage of the store were not making a positive contribution to the character or amenity of the commercial area.
12. At the time of the site visit for this appeal, the bus shelter in question had been removed and both the Whiteleys store and the adjoining public street space were in the course of significant restoration and redevelopment which will seek to reinstate the vibrancy that was deficient in 2016. With the works being so extensive, the area up to the centre of the road was cordoned off and the building screened by a substantial supporting steel structure.
13. Evidence has not been submitted which sets out how the west side of the street will operate or appear once the restoration and redevelopment works

have been completed. It has therefore not been demonstrated what the visual context of the proposed digital displays would be or indeed whether the InLink unit may physically be accommodated in the identified position.

14. Consequently, in the absence of compelling evidence to the contrary and despite the stated benefits of the scheme, it is not possible to take a different view from the Council that the proposed advertisements would; have an unacceptably harmful effect on the visual amenity of the area, fail to preserve or enhance the character or appearance of the CA and harm the setting of the neighbouring listed building. Accordingly, it is considered 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 normally resist advertisements on street furniture, especially in conservation areas and adjacent to listed buildings. The policy also seeks to resist LED screens.

Conclusion

15. 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