



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/18/3218048

Outside 22 Queensway, London W2 3RX

- 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 18/07577/ADV, dated 31 August 2018, was refused by notice dated 1 November 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. The appeal site address as provided on the original application form was 'Outside Noahs Kitchen, 22 Queensway'. At the time of the site visit, the business occupying the unit had changed names and so the address in the header above has been shortened to 'Outside 22 Queensway'.
3. 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Ltd* [2019] EWHC 176 (Admin) and as set out in a letter dated 6 March 2019, the prior approval appeal has since been withdrawn by the appellant.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.
4. 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.
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. Instead of the usual five years, consent is sought for a period of ten years.

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 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 southern portion largely derives from its commercial uses with a range of restaurants and shops at ground floor level with residential accommodation above.
10. The InLink unit would be positioned close to the pavement edge on the east side of Queensway. 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. The area surrounding the appeal site fully reflects the character of the southern portion of the CA with commercial units occupying the ground floor of the buildings. The units have fascia signs and in certain cases small projecting signs. Some of the signage is illuminated either internally or externally.
12. Nevertheless, apart from functional information signs, advertisements in the street scene are generally confined to the shop fronts. On both sides of the street there is a notable absence of commercial advertisements attached to fixed street furniture. Unlike as indicated on the application form, the existing telephone kiosk on the eastern side of the street is devoid of such advertisements and whilst a small bus shelter on the western side has a double-sided digital panel at one end, it was not operational at the time of the site visit and no evidence has been submitted which confirms that it has express consent to display advertisements.
13. In the Planning, Design and Access Statement the appellant referred to the Council granting consent for two digital illuminated advertisements attached to buildings in the vicinity of the site, (LPA Refs: 17/02283/ADV and 17/00017/ADV). However, as the description of the proposals refer to 'externally illuminated' and 'internally illuminated' respectively, there is no evidence to confirm the consents relate to digital screens. The proposed scheme 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. Despite the busy commercial nature of the area, they would detract from the character and appearance of the CA.
15. The appellant has drawn attention to advertisements granted express consent on appeal in other sensitive areas of Westminster with regard to designated heritage assets. Of particular note is Appeal Ref: APP/X5990/Z/16/3156856 in relation to a double-sided digital display panel at one end of a bus shelter positioned in front of the Grade II listed Whiteleys Store, located further to the north in the CA. However, 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. Similar circumstances do not apply in this appeal and at the time of the site visit, 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.
16. In the cases referred to, it is accepted the digital screens relating to a telephone kiosk and bus shelter were larger than those proposed. Nevertheless, 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 Queensway.
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 nearby telephone kiosk. 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 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

19. 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