
Appeal Decisions

Site visit made on 3 July 2019

by **D Cramond** BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal A Ref: APP/K5600/Z/19/3227255

Telephone Kiosk outside 254-256 Earl's Court Road, London, SW5 9AD

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/19/00045, dated 2 January 2019, was refused by notice dated 27 February 2019.
 - The proposal is an illuminated digital advertisement display integrated within replacement telephone kiosk; display measures 1650mm high by 928mm wide.
-

Appeal B Ref: APP/K5600/Z/19/3227262

Telephone Kiosk outside 94/96C Kensington High Street, London, W8 4SJ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/19/00043, dated 2 January 2019, was refused by notice dated 27 February 2019.
 - The proposal is an illuminated digital advertisement display integrated within replacement telephone kiosk; display measures 1650mm high by 928mm wide.
-

Appeal C Ref: APP/K5600/Z/19/3227265

Telephone Kiosk outside 166-168 Kensington High Street, London, W8 7RQ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/19/00116, dated 2 January 2019, was refused by notice dated 27 February 2019.
 - The proposal is an illuminated digital advertisement display integrated within replacement telephone kiosk; display measures 1650mm high by 928mm wide.
-

Appeal D Ref: APP/K5600/Z/19/3227268

Telephone Kiosk outside 227 Kensington High Street, London, W8 6SA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/19/00097, dated 2 January 2019, was refused by notice dated 27 February 2019.
 - The proposal is an illuminated digital advertisement display integrated within replacement telephone kiosk; display measures 1650mm high by 928mm wide.
-

Appeal E Ref: APP/K5600/Z/19/3227282

Telephone Kiosk outside 49 King's Road, London, SW3 4ND

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/19/00052, dated 2 January 2019, was refused by notice dated 27 February 2019.
 - The proposal is an illuminated digital advertisement display integrated within replacement telephone kiosk; display measures 1650mm high by 928mm wide.
-

Appeal F Ref: APP/K5600/Z/19/3227286

Telephone Kiosk outside 152 King's Road, London, SW3 4UT

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/19/00056, dated 2 January 2019, was refused by notice dated 27 February 2019.
 - The proposal is an illuminated digital advertisement display integrated within replacement telephone kiosk; display measures 1650mm high by 928mm wide.
-

Appeal G Ref: APP/K5600/Z/19/3227292

Telephone Kiosk outside 436 King's Road, London, SW10 0LJ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/19/00062, dated 2 January 2019, was refused by notice dated 27 February 2019.
 - The proposal is an illuminated digital advertisement display integrated within replacement telephone kiosk; display measures 1650mm high by 928mm wide.
-

Appeal H Ref: APP/K5600/Z/19/3227295

Telephone Kiosk outside 95 Gloucester Road, London, SW7 4SS

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by New World Payphones against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/19/00067, dated 2 January 2019, was refused by notice dated 27 February 2019.
 - The proposal is an illuminated digital advertisement display integrated within replacement telephone kiosk; display measures 1650mm high by 928mm wide.
-

This decision is issued in accordance with Section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 24th July 2019.

Decision Appeal A

1. The appeal is allowed and express consent for the display of the advertisement as applied for is granted. The consent is for five years from the date of this
-

decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached schedule.

Decision Appeal B

2. The appeal is dismissed.

Decision Appeal C

3. The appeal is dismissed.

Decision Appeal D

4. The appeal is allowed and express consent for the display of the advertisement as applied for is granted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached schedule.

Decision Appeal E

5. The appeal is dismissed.

Decision Appeal F

6. The appeal is dismissed.

Decision Appeal G

7. The appeal is dismissed.

Decision Appeal H

8. The appeal is allowed and express consent for the display of the advertisement as applied for is granted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached schedule.

Procedural and Preliminary Matters

9. As set out above there are eight separate appeals. Each appeal relates to a different site, however the advertisements being proposed are the same. I have considered each proposal on its individual merits. In so far as I set out the position under Main Issues below the appeals raise similar issues. The cases are not linked but in the circumstances, and for the convenience of recipients, I have dealt with them in a single decision letter.
10. The advertisement proposals are as described above. The appellant explains that the proposed advertisement panels would display static advertising images in sequence, changing no more frequently than every 10 seconds, the change would be via smooth fade. The illumination brightness of the display is controlled via light sensor which monitors ambient light. During periods of darkness, a display's illumination would be restricted to a maximum brightness of 280 candelas per square metre. There are no technical reasons why digital displays of this nature should be any brighter or more intrusive than a 'conventional' advertisement display unit with internal lighting.

11. The kiosks referred to do not have any approval and are not the subject of these appeals. My decisions on the advertisements are not connected to any assessment or determination relating to the kiosks. I have decided the advertisement appeals on their own merits. The appellant may or may not seek permission for kiosks at a later date. It is indicated that such an exercise by the appellant would involve a replacement process for existing kiosks; again determination of any such proposal is not within my remit.
12. The principal parties refer to development plan policies. The Regulations require that decisions be made only in interests of amenity and public safety. Therefore development plan policies alone cannot be decisive, but I have taken them into account as material considerations.
13. The National Planning Policy Framework explains at Paragraph 132 that the quality and character of places can suffer when advertisements are poorly sited and designed. It states that control over advertisements should be simple, efficient and effective; control should only relate to amenity and public safety and cumulative impacts are relevant.
14. The site's of Appeals B, C, E, G and H lie within a Conservation Area. In each of these cases I have paid special attention to the desirability of preserving or enhancing the character or appearance of the relevant Conservation Area. This is a statutory duty under S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
15. Appeals A, B, C, E, and H are for locations where Inspectors have previously allowed appeals and granted express consent for the display of advertisements and they are cited by the appellant and noted by the Council. In those cases the display panels were integrated within telephone kiosks, they were set towards the edge of the footway, and the display was shown as facing outwards towards and parallel to the vehicular carriageway. The proposed position of the advertisements dealt with in this decision letter are all set at right angles to the kerb and would in most cases face nearside on-coming traffic along with pedestrians heading towards the displays. I have carefully considered the foregoing appeal decisions during my determination of the cases before me.

Main Issues

16. All the cases have a main issue of visual amenity.
17. Appeal cases C, D and E also have a main issue of public safety particularly in terms of their effect on the safe and unobstructed movement of pedestrians and other users of the footway.

Reasons

Appeal A

18. The locality of the proposed advertisement is a busy stretch of Earl's Court Road with a length of relatively wide footway. The immediate surrounds include large scale plate glass fronted retail units with a range of advertisements displayed and varied forms of illumination. The footway has a number of elements along this section including retail kiosks, police box, cycle racks, other structures and some existing advertisements.

19. In this context the proposed advertisement would appear unremarkable in terms of its location, scale, orientation or illumination and I conclude that there would not be harm to the visual amenity of the streetscape. Appeal A therefore succeeds.

Appeal B

20. Kensington High Street is busy along this stretch both in terms of vehicles and pedestrians. However with relatively small retail and more intimate food and drink frontages and a fairly confined footway there is a sense agreeable human scale. Street trees add to the ambiance and there is a considerable volume of residential accommodation evident at upper levels. Structures on the footway are not a frequent phenomenon along this block and pedestrians can enjoy vistas to some interesting buildings and longer streetscenes. The Conservation Area status is almost self-evident because of the local aesthetic quality.
21. A sizeable illuminated advertisement placed at right angles to the flow of pedestrians and vehicles would, I conclude in this context, be unacceptably visually harmful to the amenity of the streetscene and would run contrary to the objectives of S.72 of the Act. Appeal B therefore is dismissed.

Appeal C

22. Kensington High Street is 'dual carriageway' at this point although the treed central traffic island reduces the visual impact of this and footway ambiance is a reasonable one. Retailers tend to have modern shop frontages but in the main they are not of excessive span. Projecting signs are virtually all modest in scale. This is a largely uninterrupted stretch of footway free of paraphernalia or structures and the sense of openness is a positive attribute. Looking upwards one can particularly see why this is part of a Conservation Area but at street level the character and appearance is also well defined and positive and pleasing in my opinion.
23. I therefore conclude that in this context a sizeable illuminated advertisement placed at right angles to the flow of pedestrians and vehicles would be unacceptably visually harmful to the amenity of the streetscene and would run contrary to the objectives of S.72 of the Act. Appeal C therefore is dismissed.
24. I would add that in terms of safety and obstruction of pedestrians and other footway users I do note that the advertisement would narrow the width available to below the Council's policy objective of 4 metres. However the intrusion would be such that the reduction below this figure would be very modest and I am not persuaded that such a pinch point, which would be minor in all directions, should add weight to other concerns I have with this proposal.

Appeal D

25. This is a busy and unremarkable stretch of Kensington High Street with a variety of shop fronts, some sizeable buildings and general activity at the abutting junction. The building line is a varied one with some buildings 'jutting' outwards. With this and other features such as nearby bus shelters with their advertisements there is an irregular visual pattern to the streetscene. The scene is a busy commercial one of no great aesthetic merit and I note this site does not lie in a Conservation Area. I would deem that even a fairly sizeable

illuminated advertisement placed at right angles to the flow of pedestrians and vehicles would not be unacceptably visually harmful to amenity given its backdrop and wider context.

26. In terms of safety and obstruction of pedestrians and other footway users the advertisement would narrow the width available to below the Council's policy objective of 4 metres. However the intrusion would be such that the reduction below this figure would be very modest and I am not persuaded that such a pinch point, which would be minor in all directions, would be a negative factor in the determination of the scheme; it would be neutral.
27. Given the above I conclude that Appeal D should succeed.

Appeal E

28. The advertisement would be located outside a fast food restaurant, albeit that this has small scale frontage elements, on a busy stretch of King's Road with a streetscene which is pleasing and has some sense of intimacy despite being a main thoroughfare. However the main defining factors visually of this immediate area stem from the adjacent right angles Royal Avenue which is an extremely attractive open and green swathe of land almost alongside the appeal site. The 'natural' or undeveloped appearance of this avenue provides a radiating ambiance which should be protected and kerb side street trees continue this sense of an attractive environment at ground level with its own characteristics which are entirely at ease in visual terms and logically form part of a Conservation Area.
29. In this context I would assess that a sizeable illuminated advertisement placed at right angles to the flow of pedestrians and vehicles would be incongruous and unacceptably visually harmful to the amenity of the streetscene and would run contrary to the objectives of S.72 of the Act.
30. On the matter of safety and obstruction of pedestrians and other footway users, the advertisement would narrow the width available to below the Council policy objective of 4 metres. The interruption and reduction below this figure would be appreciable and I share the Council's view that this would intrude upon safe and convenient passage in what is a busy locale with significant footfall.
31. Given the above I conclude that Appeal E should be dismissed.

Appeal F

32. This stretch of Kings Road is more 'low key' in character than many other parts of the road with shop fronts generally being restrained and mature trees dominant. The rather intimate area has little in the way of sizeable advertising or extraneous light sources. The ambiance is pleasing and the aesthetic qualities stem from an air of tradition not modernity.
33. In this context a sizeable illuminated advertisement placed at right angles to the flow of pedestrians and vehicles would be jarring on the eye and very out of tune with, and damaging to, the visual amenity of the area. Appeal F is therefore dismissed.

Appeal G

34. This is an area of King's Road with generally small scale commercial premises usually with subtle detailing and low key associated advertisements. There is a leafy feel along this stretch and a pleasing streetscene. Flats above shops are only on two floors. Close to the south west the road becomes almost wholly residential in character and this transitional length where the proposal would be sited has a very low key and human scale to its character. There is very little evidence of sizeable advertising and the environment is traditional in almost all senses.
35. The charm of the locality makes it not all surprising that it is part of a Conservation Area.
36. Given this backdrop, the incongruity of a sizeable illuminated advertisement placed at right angles to the flow of pedestrians and vehicles would be very tangible. The proposal would be unacceptably visually harmful to the amenity of the streetscene and would run contrary to the objectives of S.72 of the Act. Appeal G is therefore dismissed.

Appeal H

37. The site is on a busy and bustling part of Gloucester Road which is effectively a transport interchange given Gloucester Road station opposite, bus routes and stops, and proximity of major junctions. There are a range of business premises locally and a number of these are large in scale and with bright and plate glass style frontages. Varied advertisements are within the local scene as are information points, bus shelters, outdoor seating, bike racks and so forth. The pavement width is fairly generous and despite diverse structures does not appear cluttered but rather is part of an established core area's vibrant scene.
38. The locality is part of a Conservation Area and its character is undoubtedly lively with a varied interesting appearance punctuated by some fine buildings with most interest usually above ground floor level.
39. In this context the proposed advertisement would appear unremarkable in terms of its location, scale, orientation or illumination and I conclude that there would not be harm to the visual amenity of the streetscape. There would not be conflict with the objectives of S.72 of the Act. Appeal H therefore succeeds.

Conditions

40. In addition to the five standard conditions set out in the Regulations the Council has made suggestions that any advertisement should be i) static, ii) subject to time limited change, iii) at limited luminance, iv) not for same product sequencing and v) to be constructed without blocking or undue hindrance to footway or carriageway.
41. The appellant's proposal effectively incorporates i) – iii) and I shall apply such controls in the interests of amenity. I would assess that the suggestion under iv) would be over onerous and not necessary and neither is v) not least given controls under other legislation.

Overall conclusion

42. For the reasons given above, Appeals A, D and H succeed. For the reasons given above, Appeals B, C, E, F and G do not succeed.

D Cramond

INSPECTOR

SCHEDULE OF CONDITIONS (2) (Appeals A, D and H)

1. The digital advertisement panel hereby granted consent shall display static images only and the images shall be changed no more frequently than once every ten seconds through a smooth fade. No moving images or special effects shall be shown.
2. The intensity of the illumination of the digital advertisement hereby granted consent shall be no greater than 280 candelas per square metre during the period between dusk until dawn.