



Appeal Decision

Site visit made on 3 July 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2019

Appeal Ref: APP/X5990/H/18/3215804

Opposite 143 Praed Street, London W2 1RL

- 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 Mr Neil Scoresby of BT Telecommunications PLC against the decision of City of Westminster Council.
 - The application Ref 18/06520/ADV, dated 1 August 2018, was refused by notice dated 28 September 2018.
 - The advertisement proposed is 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.

Procedural Matters

2. Since the submission of this appeal, the Government has published the revised National Planning Policy Framework (the Framework) on 19 February 2019, which forms a material consideration in the determination of the appeal. However, the changes have no material bearing to the main issues before this appeal.
3. This appeal was initially linked with Ref APP/X5990/W/18/3215800 which was for Prior Approval for the installation of one freestanding InLink kiosk. In March 2019, following the Westminster judgment¹, the appellant withdrew the prior approval appeal but asked that the advertisement appeal continue. The Regulations, the Framework and advice within the Planning Practice Guidance (PPG) require that decisions on advertisements be made only in the interest of amenity and public safety. Accordingly, I have determined the appeal on the basis of the above. Notwithstanding the outcome of this appeal, the necessary permissions would still be required for the kiosk itself.
4. For clarity and precision, I have taken the address from the appeal form and decision notice. Furthermore, I have inserted 'Opposite' and the correct post code as it more accurately describes the address.
5. I note in the Officer Report that the concerns have been raised in respect of public safety and that the Highways Planning Officer has objected to the advertisement. However, the Council has not cited public safety as a reason for refusal on its decision notice. I have dealt with the appeal on this basis.

¹ Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin)

Main Issues

6. The main issues are the effect of the proposed advertisement on the amenity of the Bayswater Conservation Area (BCA) and the setting of the Clarence Memorial Wing of St Mary's Hospital (CMW), which is a Grade II listed building.

Reasons

7. The appeal site is on the pavement of Praed Street, close to a pedestrianised section of Winsland Street. This appeal relates to the provision of two digital 55-inch display screens which would be situated either side of a new InLink telephone kiosk, which has yet to be granted consent or erected on site. The InLink structure would have an overall height of around 2.9 metres.
8. The advertisement would be located on a section of pavement where there is street furniture present comprising street lighting, a bust stop with 2 advertisement displays facing the road, 3 kiosks, including the 2 existing kiosks that would be removed as part of the proposal. Both of the kiosks to be removed have an advertisement panel situated upon them.
9. The site is located within the BCA. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) sets out that in the exercise of planning functions with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.
10. I note the presence of the commercial properties on the opposite side of the road, where a notable amount of advertising is present, including some which is illuminated. This advertising is mainly located at the ground floor of these facing properties, due to the shops and services that are present. However, from my observations, the proposal would be viewed against the background of the adjacent property, which has little advertising present on the facing elevation. Although there is advertising present on the opposite side of Praed Street, this would not provide sufficient mitigation against the harmful effect of the proposed advertisements. Although the proposal would replace the existing kiosks, this section of the pavement is characterised by the little advertising, little visual clutter and the presence of street trees. Although, I do recognise that beyond the adjacent construction site that was being developed on my site visit, towards London Street, the amount of advertising on buildings does increase.
11. I find that the proposed advertisements fall within the setting of the CMW due to its proximity. The addition of the advertisement to the setting of the listed building would diminish its design and setting. The CMW was opened in 1904 and is constructed out of Ashlar stone at the basement, semi-basement and ground floor with red brick above with ashlar dressings and loggias in an eclectic renaissance style. This wing also has a blue plaque located on it in recognition of the discovery of penicillin by Alexander Fleming (1881-1955). I have a statutory duty under Section 66 (1) of the Act which requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. I consider the proposal fails to accord with this duty.
12. Additionally, the proposed illumination of the advertisement displays and the prominent location of the proposal, I find that the nature and effect of the

digital advertising would be unlike anything else experienced in the existing surrounding street scene. Furthermore, this would be more apparent during the hours of darkness and would form an incongruous addition to the street scene that could not be overcome by suitably worded conditions. Consequently, I find that the proposed advertisement would have a significant harmful effect on the amenity of the BCA. The advertisement would be more noticeable due to its digital advertising displays. This would result in a more striking and wider reaching visual impact on the street scene and the setting of the CMW.

13. The appellant has referenced an approved application² and various appeal decisions³ in support of his submission, although the advertisement appeals are only of relevance in this instance. However, relatively little detail has been provided regarding the particular planning backgrounds to these schemes and I do not know what evidence was before the Inspectors at the time of their decisions. Additionally, the form of advertising on the bus stop was not digital at the time of my visit and therefore differs from the proposal before me. In any event all applications and appeals are judged on their own individual merits and where appropriate the relevant legislative provisions. Accordingly, that is how I have assessed this appeal scheme.
14. For the reasons set out above, I conclude that the proposed advertisements would have a significant harmful impact upon the character, appearance and amenity of the surrounding BCA. Therefore, in accordance with the Regulations, I have taken into account the provisions of the development plan so far as they are material and find that the proposed advertisements fail to accord with the overall amenity and heritage aims of Policies S25 and S28 of Westminster's City Plan 2016, saved Policies DES1, DES8, DES9 and DES10 of Westminster's Unitary Development Plan 2007.
15. Additionally, the proposed advertisements would not conserve the heritage assets in a manner appropriate to their significance in line with the Framework. I find that the proposed development would result in "less than substantial" harm to the BCA and the CMW for the purposes of paragraph 196 of the Framework. I note the public benefits of the 'InLink' unit advanced by the appellant, in which the proposed advertisements would be incorporated. However, that development is not the subject of this appeal. In any event, I do not consider the nature of these public benefits to outweigh the less than substantial harm to the significance of the character and appearance of the BCA or the setting of the CMW.

Other Matters

16. I have taken into account that the Chair of the Paddington Waterways & Maida Vale Society Planning Sub-Committee and the Council's Project Officer (Waste) raise no objections to the proposal. However, I have considered this proposal on its own planning merits and concluded that the scheme is not acceptable for the reasons set out above.

² 16/02677/ADV

³ APP/X5990/Z/16/3156856; APP/X5990/W/17/3182006; APP/X5990/Z/17/3182012; APP/X5990/W/17/3182305; APP/X5990/Z/17/3182306; APP/X5990/W/17/3182307 and APP/X5990/Z/17/3182308.

Conclusion

17. For the reasons set out above I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR