



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/18/3215777

Pavement outside 4 Bell Street, London NW1 5BY

- 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 18/06447/ADV, dated 31 July 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'.

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/18/3215772 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.

Main Issues

4. The main issues are the effect of the proposed advertisement on the amenity of the surrounding area and on public safety.

Reasons

Amenity

5. The appeal site is on the pavement of Bell Street near to the Public House on the corner of the road with Edgware Road. This appeal relates to the provision of two digital 55-inch display screens which would be situated either side of a

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

- 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.
6. The advertisements would be located on a section of pavement where there is little street furniture present. I note the commercial properties on the opposite side of the road comprising of various retail and services, with various advertisements, including some which are internally illuminated. Additionally, I note the large gallery on the opposite side of the road to the public house. However, from my observations, the proposal would be viewed against a background of the adjacent properties, which includes the public house. Although both adjacent buildings have some advertising present on the facing elevations, in both instances it does not form a dominant feature on the buildings.
 7. Given the little advertising on the section of Bell Street where the site is located, the proposal would be a prominent and intrusive feature that would appear at odds with its surroundings. Through, 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 a discordant addition to the street scene that could not be overcome by suitably worded conditions. Consequently, I find that the proposed advertisements would have a significant harmful effect on the amenity of the area. The advertisements 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.
 8. The appellant has made reference towards 2 appeal decisions² in support of their submission, although the advertisement appeal is only of relevance in this instance. However, relatively little detail has been provided regarding the particular planning background to this scheme and I do not know what evidence was before the Inspector at the time of his decision. 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.
 9. For the reasons set out above, I conclude that the proposed advertisements would have a significant harmful impact upon the amenity of the surrounding area. 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 aims of Policies S25 and S28 of Westminster's City Plan 2016 (CP), saved Policies DES1 and DES8 of Westminster's Unitary Development Plan 2007 (UDP) and the Framework.

Public safety

10. The appeal site would be close to the edge of the footpath on Bell Street. However, due to the public house projecting further forward towards the road, the pavement narrows appreciably before the site when approaching from Edware Road.

² APP/X5990/W/17/3182307 and APP/X5990/Z/17/3182308

11. I note that the Council's Highways Section has raised objections to the proposal, with regard to pedestrian movement. Having given due consideration to the above, I am not satisfied that the width or design of the pavement would ensure that the pedestrian flow in the vicinity of the advertisement would be maintained. I note the distance of the advertisement from the corner of the public house and the distance from the adjacent building. However, I am not convinced that this would be sufficient to ensure that the flow of pedestrians in this location would not be impeded.
12. Consequently, due to the location of the advertisement, I find that a pinch point in the pavement would be created, which I consider would likely result in significant harmful effects to the movement of pedestrians and would represent an inconvenience to the detriment of public safety. I acknowledge the presence of the existing kiosk that would be removed, but this is in a different location to the proposal before me, as it is closer to the adjacent building. In the absence of any substantive evidence to the contrary, I find that the proposal would be unacceptable with regard to its impact on public safety.
13. For the reasons set out above, I therefore conclude that the proposed advertisement would prejudice local conditions of public safety. 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 public safety aims of CP Policy S41, UDP Policy TRANS3, Westminster Way Public Realm Strategy Supplementary Planning Document 2011, and the Framework.

Other Matters

14. Whilst the appellant refers to the public benefits of the 'InLink' unit in which the proposed advertisements would be incorporated, that development is not the subject of this appeal. In any event, I do not consider the nature of these benefits against the nature of the harm to amenity and public safety of the area, to outweigh the harm identified above. I have considered this proposal on its own planning merits and concluded that the scheme is not acceptable for the reasons set out above.

Conclusion

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

W Johnson

INSPECTOR