
Appeal Decision

Site visit made on 23 September 2019

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st October 2019

Appeal Ref: APP/V5570/Z/19/3232916

Telephone Kiosk outside 266 Pentonville Road, London N1 9JY

- 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 Mr Richard Wilson of New World Payphones against the decision of the Council of the London Borough of Islington.
 - The application Ref P2018/4260/ADV, dated 20 December 2018, was refused by notice dated 14 May 2019.
 - The advertisement proposed is illuminated digital advertisement display integrated within replacement Telephone Kiosk.
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Decision

1. The appeal is allowed, and express consent is granted for the display of the advertisement as applied for. 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, together with the following 'additional' condition: -
 - 1) The advertisement replacement image shall be smooth fade only, the minimum time between successive display images shall be 10 seconds and the intensity of the illumination of the signs shall not exceed 280cd/m² between dusk and dawn.

Preliminary Matter

2. The advertisement, the subject of this appeal, would be displayed on a replacement kiosk to the front of 266 Pentonville Road. The proposal includes an illuminated digital advertising panel integrated into the western side of the kiosk. A separate application under the prior approval process has been submitted to the Council and that proposal has been refused. In the interests of clarity this appeal is made against the refusal of express consent for the digital display panel on the western side of the kiosk structure, therefore, this appeal relates solely to the effects of displaying an advertisement. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 sets out that advertisements are subject to control only in the interests of amenity and public safety.

Main Issues

3. The main issues are: -
 - (a) The effect of the proposed advertisement on the visual amenity of the area; and

- (b) The effect of the proposed advertisement on public safety.

Reasons

Visual amenity

4. The appeal site is located within the Kings Cross Conservation Area (the CA). There are a number of listed buildings in the vicinity of the appeal site at 272 – 276 Pentonville Road.
5. The proposed advertisement would be positioned next to a Sainsbury premises which forms part of a four storey terrace of buildings that run along the north side of Pentonville Road. The ground floors are in commercial use and this sets the established character of the area at street level. Currently the appeal site hosts an older style telephone kiosk that incorporates a vinyl advertisement on its road facing side. It was evident from my site visit that Pentonville Road is a busy area both in terms of pedestrian and vehicle throughput.
6. Along this part of Pentonville Road street furniture is commonplace. There is road signage, lampposts, traffic light signals, bus shelters and a bin situated next to the existing telephone kiosk. Furthermore, the shop frontages along Pentonville Road host signage, including various illuminated and non- illuminated shop and projecting signs. Opposite the appeal site the bus shelter incorporates an illuminated advertisement that faces onto the highway of a similar size to that proposed. I also observed similar illuminated advertisements incorporated within bus shelters located outside King's Cross Station, to the west of the appeal site.
7. The advertisement display would measure approximately 1650mm high by 928mm wide and would be an internally illuminated digital static display. It would be mounted on the western facing side of the kiosk. The appellant advises that the advertisement would be less tall, narrower and 0.5 m² (or 25%) smaller in terms of display area compared to a standard 6-sheet advertising display, examples of which are found in the locality.
8. The proposed display would be a digital liquid crystal display (LCD) panel, the latest technology for outdoor signage. The appellant advises that those illuminated advertisements at the bus shelters located outside King's Cross Station are LCD panel display signs. The appellant also explains that brightness of the display illumination would be controlled by a light sensor that monitors ambient light. During periods of darkness, the display's illumination would be restricted to a maximum brightness of 280cd/m², which is said by the appellant to be within the levels recommended by the Institute of Lighting Professions for displays located in areas of this kind. The advertisement panel would display static advertising images in sequence, changing no more frequently than every 10 seconds via smooth fade.
9. In regard to the Council's concern for the need to avoid visual clutter, the advertisement would form part of a telephone kiosk that is intended to replace an existing telephone kiosk. Furthermore, the advertisement would be located in a location where street furniture already exists. The submitted plans show the proposed advertisement panel would be at right angles to Pentonville Road. The signage would be visible to both pedestrians and road users when approaching the appeal site in an easterly direction along Pentonville Road. However, the proposal would be seen against the backdrop of the existing

commercial uses, which includes illuminated signage, as well as other existing street furniture. I do not consider the size and illuminated nature of the proposal would be observed as an unusual feature within this streetscene.

10. Given the commercial context and the busy nature of this part of Pentonville Road where illumination forms a commonplace part of this streetscene, I do not consider the proposed illuminated digital advertisement would be harmful to the character and appearance of the area. As such, it would not harm the visual amenity of the area. I find that the proposed advertisement would not be out of keeping in terms of its proposed location in relation to the setting of those Listed buildings at 272 – 276 that are located further along Pentonville Road.
11. For these reasons, I conclude that the proposed advertisement would not have a harmful effect on the visual amenity of the area, and this includes the character and appearance of the CA and the setting of listed buildings.

Public safety

12. The appellant points out that the replacement kiosk that would host the proposed advertisement panel would be slightly wider than that of the existing telephone kiosk, but the kiosk would be re-sited closer to the pedestrian footpath kerb. It does not appear to me, on the evidence before me, that pedestrian movement would be significantly more impeded than that taking place presently at this point at the pedestrian highway.
13. The orientation of the advert would directly face oncoming road traffic and pedestrians. The appellant has referred me to Transport for London's (TfL) Guidance for Digital Roadside Advertising and Proposed Best Practice (2013) and directs me to advice indicating that digital advertisements are likely to best be located alongside the nearside carriageway or overhead to reflect where official road signs would normally be located. The Guidelines explain that digital advertisements are best oriented to face the oncoming driver and locating the advertisement in driver's eye line reduces the risk of drivers turning attention away from the road.
14. It has already been noted that the display would be controlled by light sensor which would monitor ambient light and that the illumination would be restricted during the hours of darkness. I consider this would ensure that the digital display would not be overly bright or cause glare. Furthermore, changing the advertised images utilising smooth fade would minimise driver distraction.
15. TfL Engineering has no comment to make on this proposal, although the Council say that TfL has previously objected to the proposed advertisement. However, I have no substantive persuasive evidence that would support the Council's stance that the proposal would result in a detrimental effect on public safety.
16. For these reasons, I conclude that the proposed advertisement would not prejudice conditions of public safety.

Other Matters

17. I have noted the objections raised by the Islington Society relating to the flood of unnecessary phone boxes, intrusive advertising screens, secret surveillance and vehicles drivers and pedestrians' public safety. However, I have addressed

the impact upon the area's amenity and highway safety above. There is no substantive evidence or information before me that would indicate that secret surveillance would take place as a result of the proposal. I therefore accord these matters limited weight.

Conditions

18. The Council has indicated that if the appeal is to be allowed the advertisements should be subject to the five standard conditions set out in the Town and Country Planning (Control of Advertisements) (England) Regulation 2007. I have considered this in light of the tests in paragraph 55 of the National Planning Policy Framework (the Framework) and have thus imposed the suggested standard conditions.
19. In addition, I consider it prudent in the interests of clarity, precision and public safety to add a condition requiring smooth fade transition between adverts, maximum luminance during the hours of darkness and frequency with which adverts would change. These restrictions would be in line with what is being proposed, as outlined by the appellant.

Conclusions

20. The Council's decision notice refers to Policies CS8 and CS9 of Islington's Core Strategy 2011 and Policies DM2.1, DM2.3, DM2.6 and DM8.2 of Islington's Local Plan: Development Management Policies 2013. These are general policies requiring high quality design, which enhances the built environment, contributes to local character and conserves and enhances the Borough's heritage assets, such as conservation areas and listed buildings. Policy DM2.6 sets out that advertisements are required to be of the highest possible standard and contribute to a safe and attractive environment. Islington's Urban Design Guide 2017 advocates principles of good design and The Conservation Area Design Guidelines 2002 states that signs should be of an appropriate scale and design. In addition, the TfL Streetscape Guidance advocates that advertising should be integrated within the urban realm so as not to impinge on pedestrian movement or impact on the overall quality of the streetscape.
21. However, as noted earlier, the Regulations require that decisions are made only in the interests of amenity and public safety. Whilst I have taken into account those policies and guidance, which are a material consideration, I conclude that the scheme would not conflict with them and they have not been decisive considerations in my decision. As the proposal would not conflict with those matters pertaining to character and appearance and highway safety, the proposed advertisement would not conflict with the Framework.
22. Having regard to all other matters raised, the appeal is allowed.

Nicola Davies

INSPECTOR