



Appeal Decision

Site visit made on 2 July 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 14th November 2019

Appeal Ref: APP/X5990/Z/18/3214132

Praed Street (Outside No. 2/3), London W2 1JX

- 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 British Telecommunications Plc against the decision of City of Westminster Council.
 - The application Ref 18/04395/ADV, dated 3 July 2018, was refused by notice dated 22 August 2018.
 - The advertisement proposed is the display of an internally illuminated digital LED screen on two sides of the proposed free standing InLink.
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Decision

1. The appeal is allowed and express consent is granted for the display of an internally illuminated digital LED screen on two sides of the proposed free standing InLink 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 and the following additional conditions:
 - 1) The intensity of the illumination of the screens permitted by this consent shall be no greater than 600 candelas per square metre between dusk and dawn.
 - 2) The advertisements displayed shall be a series of static images, which individually feature no moving elements, dynamic displays or motion pictures.
 - 3) The minimum display time for each piece of content on the digital screens shall be 10 seconds.
 - 4) The interval between advertisements shall take place over a period of no greater than one second. The complete screen shall change, with no visual effects (including swiping or other animated transition methods) between displays, and the display shall include a mechanism to freeze the image in the event of a malfunction.
 - 5) No advertisement displayed shall resemble a traffic sign, as defined in section 64 of the Road Traffic Regulation Act 1984.

Procedural Matters

2. The appeal was originally accompanied by a second appeal in respect of an application¹ for prior approval for construction of the InLink structure. The appellant subsequently withdrew the prior approval appeal in light of a relevant judgment². Accordingly, planning permission in respect of the construction of the InLink structure is not being considered in this Decision and would require separate consideration. However, the appellant has indicated that they wish to continue this appeal, the determination of which would remain necessary if permission were granted for the structure. I have therefore determined the appeal on this basis.
3. The description of development in the heading above has been taken from the planning application form. A different wording has been entered in Part E of the appeal form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

4. The main issue is the effect of the appeal proposal on the amenity of the area.

Reasons

5. The appeal site is a section of footway which lies on a commercial street with several illuminated shop frontages and advertisements in the immediate vicinity. Surrounding commercial establishments generally have a modern and well-kept appearance. The site is located close to the junction of Praed Street with Edgware Road, which has a highly commercial character and carries significant levels of traffic. Thus, the area has a bustling and modern character.
6. No 10 Praed Street is a Grade II listed building which lies in the vicinity of the appeal site, which is consequently within its setting. It is a former public house which has a significant presence within the street scene. As such, the appeal site has a close physical and visual relationship with a nearby listed building and its setting.
7. There is a significant level of street furniture in the vicinity of the site, including a double lamp post, a kiosk which holds an advertisement in poster form, a bus shelter with two illuminated digital advertisements, and navigational posts. These have a generally modern and well-kept appearance.
8. The appeal site currently holds two payphone kiosks. They have a dilapidated appearance which is out of keeping with their modern and generally well-kept surroundings. They consequently have a harmful effect on the amenity of the area. The appeal proposes their removal and replacement by a single free-standing "InLink" structure, with a height of approximately 2.9 metres and a width of approximately 0.89 metres. Screens would occupy the top part of the front and rear of the structure, and would consequently lie at eye level and above. These would display digital advertisements in the form of a series of static illuminated images.

¹ Local Planning Authority Ref: 18/04394/TELCOM

² Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin)

9. The proposal would be in keeping with the existing level of illumination in the vicinity. The illuminated advertisements of the bus shelter are at a sufficient distance to prevent any significant harm to amenity by the addition of those proposed. Furthermore, the proposed advertisements would harmonise better with their context of modern and well-kept street furniture and built form than the existing kiosks.
10. Whilst the advertisements would be located at a higher level than those on the bus shelter, several examples of street furniture in the vicinity have a comparable or greater height. These include navigational posts, the illuminated posts of the nearby road crossing and road signage. The proposed screens would not appear so large as to be incongruous within this highly commercial area. Therefore the advertisements would not have undue prominence within their setting.
11. Longer distance views of the listed building from the appeal site would be preserved given the distance between the two. Furthermore, the listed building's immediate area already contains a relatively high level of street furniture, as set out above. Views of the building from all directions consequently contain a significant level of street furniture and illumination, such that the addition of the appeal proposal at a short distance from these would not harm amenity. Moreover, the listed building's surroundings have a modern and commercial character, rather than any particular historic quality. Thus, the proposed advertisements would appear fitting within this context.
12. I therefore conclude that the appeal proposal would have an acceptable effect on amenity. I have taken into account policies S25 and S28 of the Westminster City Plan (2016) and policies DES 1, DES 8, and DES 10 of the Unitary Development Plan (2007), which seek to protect amenity and so are material in this case. Given that I have concluded that the proposal would not harm amenity, the proposal does not conflict with these policies.

Conditions

13. The additional condition to restrict screen illumination levels in the hours of darkness accords with the relevant institute guidance³ in respect of urban areas. It is necessary so that the advertisements do not appear unduly prominent within views of the listed building at night. It is additionally necessary in order to protect public safety, particularly by means of a reduction of the potential distraction which bright illumination would cause to users of the adjacent carriageway.
14. The additional conditions to prevent the display of moving images and to set a minimum content display time are necessary so that the advertisements do not distract users of the adjacent carriageway. They are additionally necessary so that the advertisements do not detract from the setting of the listed building.
15. Whilst the Council requests a slightly longer display time per advertisement, at 12 seconds, I am mindful of advice within PLG 05 which sets out that the rate of change for such advertisements should be limited to once every 5 seconds. I consider that only minimal evidence of the reasons for the Council's request is before me and hence I conclude that the requested 12 second display period has not been shown to be necessary. I concur that the 10 second display time

³ Professional Lighting Guide 05 ("PLG 05") "The Brightness of Illuminated Advertisements" by the Institute of Lighting Professionals

proposed by the appellant is reasonable in this context in order to protect amenity and public safety.

16. An additional condition with regard to the interval between advertisements is necessary in order to prevent undue distraction to users of the adjacent carriageway, and hence in order to protect public safety.
17. The additional condition which requires content not to resemble a road sign is necessary to prevent road user confusion in view of the appeal site's location adjacent to a carriageway, and hence in order to protect public safety.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed.

C Beeby

INSPECTOR