The Planning Inspectorate

# 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/18/3213059**
**Edgware Road (Outside No. 15-17), London W2 2JE**

- 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 18/04413/ADV, dated 29 May 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.

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The appeal was originally accompanied by a second appeal in respect of an application[1] for prior approval for construction of the InLink structure. The appellant subsequently withdrew the prior approval appeal in light of a relevant judgment[2]. 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 within a busy commercial area with several shops and businesses, which mainly lie to the ground floor of large

[1] Local Planning Authority Ref. 18/04412/TELCOM
[2] Westminster CC v SSHCLG & New World Payphones Ltd [2019] EWHC 176 (Admin)

buildings. Small advertising stands lie outside several of these, however only minimal illuminated signs are present. Commercial frontages in the vicinity have relatively muted colours. Street furniture includes a street lighting column, recycling bin, road sign and cycle stand. These items are predominantly painted black.

6. A kiosk which was permitted on appeal[3] lies within the same section of footway. It shows static illuminated advertisements which change at regular intervals on a single side, which faces the appeal site. A bus shelter lies a little farther along the road in the opposite direction. It shows similar advertisements on two sides.

7. Whilst the area has a commercial appearance, several factors serve to limit the prominence of street furniture and to provide a spacious appearance to the footway. These include the relatively muted colours of business frontages, the limited scale of street furniture and its unobtrusive colour scheme, the general lack of illuminated advertisements and the presence of footway trees.

8. The appeal site currently holds two payphone kiosks. 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.

9. Whilst the proposed panels would be smaller than others in the vicinity, at approximately 1.21 metres x 0.69 metres, their location would be higher than both the existing payphone and bus shelter panels. Views of them from the footway and adjacent carriageway would be uninterrupted due to the unenclosed nature of the proposed structure. The proposed advertisements would consequently be prominent within views from the footway and carriageway. This effect would be increased because a panel would be positioned on both sides of the structure.

10. The proposal would additionally give rise to a "tiled" effect of a series of illuminated advertisements within longer range views of the kiosk, the appeal proposal and the bus shelter. The proposed advertisements would consequently be out of keeping with the limited prominence of existing street furniture and this undue dominance within the street scene would cause harm to the spacious appearance of the footway.

11. Views of the bus shelter panel are partially obscured as one side is located within the shelter, and it has less prominence than that proposed due to its lower level. The visual effect of the kiosk panel is also more limited than that proposed as it lies to one side of the structure only. Thus, there are material differences between these existing features and that proposed.

12. The existing kiosks have a somewhat dilapidated appearance and have a greater footprint than that proposed. However, their relatively muted colours and lack of significant illumination do not draw the eye in the same way as the proposed moderately sized illuminated advertisements at eye level and above.

[3] APP/X5990/Z/17/3182172

Thus, I consider the proposal to cause greater harm to amenity than the visual effect of the current structures.

13. My attention has been drawn to three other appeal decisions which granted permission for the display of illuminated digital panels on kiosks. The first[4] related to a single panel in a location where a number of ground floor establishments were found to feature illuminated signage. The second concerns the kiosk which lies close to the appeal site, and also related to a single panel. The third[5] decision also related to a single panel, and found that a number of ground floor commercial establishments in the vicinity had illuminated advertisements.

14. The Inspectors for all three appeals concluded that the panels would not cause harm to the amenity of the area within their context. The current appeal proposes an illuminated panel to each side of the structure and I have not identified the use of any significant illuminated signage at establishments in the vicinity. It is therefore materially different from the three other proposals. As a result, the other appeal decisions do not alter my view that the appeal scheme would cause harm to the amenity of the area. In any event, I am required to reach conclusions based on the individual circumstances of this appeal.

15. The appeal makes reference to potential benefits of the proposal including the provision of public services and information. However, advertisements are subject to control only in the interests of amenity and public safety. Thus, the benefits referred to cannot be taken into account in my decision. Accordingly, I attach minimal weight to these submissions in determining the appeal.

16. I have taken into account policy S28 of the Westminster City Plan (2016) ("the WCP") and policies DES 1 and DES 8 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 harm amenity, the proposal conflicts with these policies.

**Other Matter**

17. The Council considers the proposal to conflict with Policy S25 of the WCP. This policy concerns the conservation of heritage assets. However, I have not identified that the proposal would cause any significant harm to heritage assets. Policy S25 therefore has limited relevance to the main issue of this appeal.

**Conclusion**

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

*C Beeby*

INSPECTOR

[4] APP/X5990/Z/17/3181993
[5] APP/X5990/Z/17/3182246