



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: 15th November 2019

Appeal Ref: APP/X5990/Z/18/3216042

Outside 99 Edgware Road, London W2 2HX

- 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 Neil Scoresby on behalf of British Telecommunications Plc against the decision of City of Westminster Council.
 - The application Ref 18/06690/ADV, dated 1 August 2018, was refused by notice dated 28 September 2018.
 - The advertisement proposed is 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 Matter

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 he wishes 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. One of the Council's reasons for refusal of the appeal proposal concerned the effect of the telecommunications console which would lie to the side of the proposed structure on pedestrian safety. However, as this matter relates to the use of the structure for telecommunications I do not consider it to fall for consideration as part of an appeal seeking advertisement consent only. Thus, I will determine the appeal on this basis.
4. 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.

¹ Local Planning Authority Ref: 18/06470/TELCOM

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

Main Issue

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

Reasons

6. 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 buildings. Shop fronts in the vicinity feature some limited illuminated signage, but this is not a significant feature of the area. Seating and advertisement stands lie between the front of businesses and the footway. Street furniture, such as street lighting and a waste and recycling bin, has a relatively unobtrusive scale. The area consequently has a generally uncluttered appearance.
7. The appeal site currently holds a single payphone kiosk, which is pasted with advertising flyers to one side. These have limited prominence within the street scene as a result of their lack of illumination or moving images.
8. The appeal proposes the removal of the site kiosk and two additional payphone kiosks in the vicinity. A single free-standing "InLink" structure would be constructed at the appeal site, with a height of approximately 2.9 metres and a width of approximately 0.89 metres.
9. A "New World" telephone kiosk lies close to the site, which received permission on appeal³. It displays a static illuminated advertisement panel to one side. A bus shelter lies a little farther along the footway. This has double sided static illuminated panels, which formed a proposal⁴ which was considered by the Council.
10. The distance between the illuminated panels of the New World kiosk and bus shelter is such that it provides reasonable spacing between the advertisements. The spacing of this and other street furniture makes a positive contribution to the uncluttered appearance of the area.
11. Screens would occupy the top part of the front and rear of the proposed 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.
12. The proposed panels would be located at a greater height than those of the New World kiosk and bus shelter. 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.
13. The appeal proposal would additionally give rise to a "tiled" effect of a series of illuminated advertisements within longer range views of the New World kiosk, the proposed advertisements and those on the bus shelter. Furthermore, the proposed advertisements would lie in close proximity to that shown on the New World kiosk.

³ APP/X5990/Z/17/3181997

⁴ 15/08567/ADV

14. The proposal would consequently contribute to a cluttered appearance which would be out of keeping with the spacing between existing advertisements and street furniture. It would therefore have a harmful effect on amenity.
15. I have taken into account policy S28 of the Westminster City Plan (2016) 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 Matters

16. The allowed appeal decision for the New World kiosk in the vicinity related to a single panel. Consequently, the circumstances of that appeal differed from the current proposal such that it does not provide an example which should inevitably be followed even in a case where harm is identified.
17. My attention has additionally been drawn to an appeal decision⁵ which granted permission for the display of an illuminated digital panel on a kiosk. The Inspector concluded that the panel would be seen in the context of existing illuminated signage. I have found above that illuminated signage is not a significant feature of the area in the case of this appeal. It is therefore materially different from the other proposal.
18. Furthermore, another appeal decision⁶ which granted permission for a similar proposal identified numerous ground floor commercial establishments with illuminated signage and large display windows in the vicinity. As such, the surroundings were materially different from those of the current appeal.
19. A further appeal decision⁷ granted permission for a similar proposal and concluded that it would not appear at odds with its setting due to the extent of advertising in close proximity to the proposed advertisement. The Inspector concluded that the proposal would be commensurate with the commercial character of the area. I have not identified a significant level of advertising in the vicinity of the current appeal proposal and therefore the circumstances of the other appeal were not so similar that they alter my conclusions on this matter.
20. As a result, the other appeal decisions do not alter my views on the appeal scheme. In any event, I am required to reach conclusions based on the individual circumstances of this appeal.
21. The appellant submits that the proposal would not harm public safety with regard to users of the adjacent carriageway. However, even if I were to concur with this submission, or to conclude that any harm in this regard could be overcome by the imposition of conditions, it would be a neutral matter which would not outweigh the harm which I have identified.
22. 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

⁵ APP/X5990/Z/17/3182338

⁶ APP/X5990/Z/17/3182012

⁷ APP/X5990/Z/17/3182308

benefits referred to cannot be taken into account in my decision. Accordingly, I attach minimal weight to these submissions in determining the appeal.

23. The removal of other kiosks in the vicinity of a listed kiosk is advanced in support of the proposal, however given their limited scale and the distance of one of the kiosks from the listed structure, this is a benefit to which I attach only limited weight. Thus, these limited benefits do not outweigh the harm to amenity which I have identified.

Conclusion

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

C Beeby

INSPECTOR