



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/18/3215081

Junction of Winsland Street and Praed Street, London W2 1BL

- 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 18/06505/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. 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 within the Bayswater Conservation Area ("the CA"), which is characterised by older multi-storey

¹ 18/06518/TELCOM

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

- buildings set along relatively wide streets which contain limited advertisements and illumination.
6. The Clarence Memorial Wing of St Mary's Hospital is a Grade II listed building which lies adjacent to the appeal site, which is consequently directly within its setting. It is an imposing building of some size which has a significant presence within the street scene.
 7. As such, the appeal site is located within the CA and has a close physical and visual relationship with a nearby listed building and its setting. The context of the site is consequently highly sensitive.
 8. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.
 9. The hospital building is notable for the muted tones of its materials and the lack of any significant illuminated signs on or around the building. Whilst Praed Street is commercial in nature, it contains only limited examples of illuminated advertising in the vicinity of the site. Moreover, the CA as a whole is generally characterised by a lack of illuminated digital advertising panels of any size. Winsland Street maintains this character.
 10. Street furniture in the vicinity has a limited scale and includes a grit bin and a hospital sign. Footway trees adjacent to the site are a muted natural element which contributes positively to the street scene. Thus, the appeal site and its immediate surroundings make a positive contribution to the comparatively muted appearance of the CA.
 11. The appeal site currently holds two payphone kiosks. Whilst they are of some age, they lack any prominent advertisements and have muted colours which are in keeping with the appearance of the area. They consequently have a neutral 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.
 12. Whilst the proposed structure would be narrower in width than the existing payphones, the screens would be located at a prominent height within their context. The structure would be unenclosed and a panel would lie on both of its sides. The proposed advertisements would consequently be visible for some distance in uninterrupted views from the footway and adjacent carriageway, including in direct and oblique views from Praed Street which include the hospital building. Their illuminance and height would result in undue prominence within the immediate setting of the hospital building.
 13. The illuminated frequently changing commercial images displayed on the screens would be at odds with the muted appearance of the surrounding area. They would have a prominence which would be out of keeping with the limited scale of existing street furniture by reason of their height above the footway.
 14. As such, the appeal proposal would appear as an inharmonious and visually intrusive feature in the street scene, and would thus fail to preserve or enhance

the character and appearance of the CA and would harm the setting of the listed building at the Clarence Memorial Wing of St Mary's Hospital. I therefore conclude that the appeal proposal would have a harmful effect on amenity.

15. I have taken into account policies S25 and S28 of the Westminster City Plan (2016) and policies DES 1, DES 8, DES 9 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 harm amenity, the proposal conflicts with these policies.

Other Matters

16. My attention has been drawn to an appeal decision³ 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 and some internally illuminated shop windows, and that it would have an acceptable effect on amenity. I have found above that illuminated digital signage is not a significant feature of the area in the case of this appeal, and furthermore it relates to the display of two advertisements rather than one. It is therefore materially different from the other proposal.
17. A further decision⁴ found that there was a significant level of illuminated advertisements in the area. As such, the surroundings of this site were materially different from those of the current appeal.
18. A bus shelter in the vicinity includes a digital illuminated advertising panel, which was considered in a scheme⁵ before the Council. However, this structure lies directly on Praed Street and farther from the listed hospital building. As such, the circumstances of that proposal were materially different from those currently under consideration and I consequently attach only limited weight to its relevance in determining the appeal.
19. Reference is also made to a scheme⁶ concerning digital advertisements on a bus shelter which was considered by the Council. Limited details of the proposal are before me, such that I cannot be certain that it is directly comparable to the appeal proposal. Thus, I attach only minimal weight to the relevance of the scheme in question in determining the appeal.
20. As a result, the other appeal decisions and proposals 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 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.
22. Furthermore, it is not necessary to consider the policy in paragraph 196 of the National Planning Policy Framework when determining advertisement consent appeals within a conservation area, as it only applies to the heritage-related

³ APP/X5990/Z/17/3182012

⁴ APP/X5990/Z/16/3156856

⁵ Local Planning Authority Ref: 15/08530/ADV

⁶ Local Planning Authority Ref: 16/03494/ADV

consent regimes under the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

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

C Beeby

INSPECTOR