



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/18/3216543

Between junctions of Hyde Park Street and Albion Street, Hyde Park Place, London W2 2HB

- 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 18/07029/ADV, dated 17 August 2018, was refused by notice dated 15 October 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 adjacent to the perimeter of the Grade I registered Hyde Park and within the Royal Parks Conservation

¹ Local Planning Authority Ref: 18/07028/TELCOM

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

Area, which derives its character largely from the substantial areas of open space which the parks provide. The opposite side of the road forms the edge of the Bayswater Conservation Area. This is characterised by older multi-storey buildings set along relatively wide residential streets which contain limited advertisements and illumination.

6. No 25 Hyde Park Place is a Grade II listed building which lies on the opposite side of the road to the appeal site, which is consequently directly within its setting. It is an imposing building of some size which is prominent within views from the park. Nos 1 and 2 Hyde Park Street are similarly imposing Grade II listed buildings which lie in a generally non-commercial adjacent street in the immediate vicinity of the appeal site.
7. As such, the appeal site is located within and adjacent to Conservation Areas and has a close physical and visual relationship with nearby listed buildings and their 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 Conservation Areas.
9. The park creates an open and verdant backdrop to the appeal site, and the surrounding area is generally muted in appearance and free from any significant level of illuminated commercial advertisements. Notwithstanding its location next to the busy Bayswater Road, the footway has an open, verdant and quiet character for some distance. This results from its width, lack of significant street furniture and its location beneath the canopies of mature trees. These qualities provide an attractive vista along Hyde Park Place and Bayswater Road, and make a positive contribution to the character and appearance of the Conservation Areas.
10. Street furniture in the vicinity includes a bus shelter, street sign and a recycling and waste bin. These structures are predominantly finished in black, and did not feature any significant advertisements at the time of my visit. The majority additionally have a limited scale in terms of breadth or height. Thus, they are in keeping with the muted appearance of the area.
11. The appeal site currently holds a single payphone kiosk. Whilst it is of some age, it lacks any prominent advertisements and has muted colours which are in keeping with the palette of the other street furniture. It consequently has a neutral effect on the amenity of the area. The appeal proposes its 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 payphone, 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 prominent in uninterrupted views from the footway and adjacent carriageway.

13. The screens would additionally be highly visible from the park due to their prominent location and the open nature of the intervening railings. Tree crowns at this point are relatively dense, and overhang the footway. This contributes to the shaded and subdued appearance of the area.
14. The illuminated frequently changing commercial images displayed on the screens would be incongruous when seen against the verdant backdrop of the adjacent open space, and would be at odds with the subdued character of the surrounding area. They would have a prominence which would be out of keeping with the limited scale of existing street furniture.
15. 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 Conservation Areas and would harm the setting of the listed buildings at No 25 Hyde Park Place and Nos 1 and 2 Hyde Park Street. I therefore conclude that the appeal proposal would have a harmful effect on amenity.
16. I have taken into account policies S25 and S28 of the Westminster City Plan (2016) and policies DES 1, DES 8, DES 9, DES 10 and DES 12 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

17. 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 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.
18. 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.
19. A further appeal decision⁵ 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. Reference is also made to a scheme⁶ concerning digital advertisements on a bus shelter which was considered by the Council. Whilst limited details of the proposal are before me, the Council found it to be located on a commercial

³ APP/X5990/Z/17/3182012

⁴ APP/X5990/Z/16/3156856

⁵ APP/X5990/Z/17/3182308

⁶ Local Planning Authority Ref: 16/03494/ADV

street with a number of shop frontages. Thus, the context of that scheme differed materially from that under consideration here.

21. Reference is additionally made to a further local scheme⁷, however minimal details of this are before me, such that I attach only minimal weight to it as a consideration.
22. 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.
23. I note the appellant's concerns regarding the Council's approach, however, these are not matters for this appeal, which I have determined on its planning merits.
24. 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.
25. 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 consent regimes under the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

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

C Beeby

INSPECTOR

⁷ Local Planning Authority Ref: 11/04695/ADV