



Appeal Decisions

Site visit made on 8 October 2019 by John Gunn DipTP Dip DBE MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 December 2019

Appeal A Ref: APP/X5990/Z/18/3213576

Junction of Harrowby Street and Edgware Road, London W2 2DT

- 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, British Telecommunications plc against the decision of City of Westminster Council.
 - The application Ref 18/06468/ADV, dated 1 August 2018, was refused by notice dated 18 September 2018.
 - The advertisements proposed are two digital 55-inch LCD display screens, one on each side of the InLink unit.
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Appeal B Ref: APP/X5990/Z/18/3213562

Junction of Oxford Street and Portman Street, London W1C 1LL

- 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, British Telecommunications plc against the decision of City of Westminster Council.
 - The application Ref 18/06473/ADV, dated 1 August 2018, was refused by notice dated 25 September 2018.
 - The advertisements proposed are two digital 55-inch LCD display screens, one on each side of the InLink unit.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Appeal Procedure

3. The site visits were undertaken by an Appeal Planning Officer whose recommendations are set out below and to which the Inspector has had regard before deciding the appeals.

Preliminary Matters

4. Whilst the appeals relate to different sites, the nature of the proposed advertisements in each case is the same. Although the appeals have been considered on their individual merits, they have been dealt with in one decision letter because they raise similar issues.

5. The appellant has indicated that the new advertisements would be integrated within a new InLink structure in each of the appeal sites. These structures have been refused prior approval by the Council. The appeals before me relate to the refusal of advertisement consent in both appeals and I have considered the proposals accordingly. The InLink structures would require a separate planning permission whether granted by the Town and Country Planning (General Permitted Development) (England) Order 2015 or by the Local Planning Authority.
6. Although both parties have drawn my attention to national and local planning policies and guidance the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ('the Regulations') and the National Planning Policy Framework make it clear that advertisements are subject to control only in the interests of amenity and public safety. In my consideration of these appeals, the policies and guidance referred to have not therefore, by themselves, been decisive.

Main Issue

7. The main issue in both cases is the effect of the advertisements on the visual amenity of the area.

Reasons for the Recommendation

Both Appeal A and Appeal B

8. Whilst amenity is not defined exhaustively within the Regulations, it does indicate that relevant factors include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The Planning Practice Guidance states that in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.

Appeal A

9. The appeal site is located just off the Edgware Road on Harrowby Street in front of a casino and shop. Edgware Road is a thriving commercial area typified by shops and offices in modern high rise buildings. This contrasts greatly with Harrowby Street, and the area to the east, which is predominantly residential in character. The Molyneux Street Conservation Area (MSCA) lies a short distance to the east of the site. The General Information Leaflet produced by the Council indicates that the MSCA is dominated by terraces of narrow fronted houses, built on a grid pattern, with most of them being three storeys in height. In close proximity to the Appeal Site are listed buildings at Nos 46–53 Harrowby Street.
10. The appeal site lies at a transitional point between the commercial area and the residential area described above. Whilst there is existing street furniture in the locality of the appeal site and advertisements on the existing phone kiosks these appear to be non illuminated. Moreover, the advertisement material on

the commercial premises within Harrowby Street is largely restrained and confined to either fascia signs or signage upon the building identifying the premises and the nature of the activity undertaken within the building.

11. The new advertisement would introduce illuminated advertisement material into the public realm and would as a result of its siting in the pavement and its size introduce a discordant, prominent feature in the street scene. The advertisement would be poorly sited and designed and would not respect the quality and character of this part of Harrowby Street.
12. The appellant has drawn my attention to several sites where the Council has granted advertisement consent for larger advertisements including on bus shelters with double sided digital advertisement panels on Edgware Road and in Bayswater. I have also taken into account the New World payphone kiosk that the appellant has referred me to, including advertisements upon it. The context for each of these permitted advertisements varies significantly from that being proposed and consequently I am not able to make any direct comparisons with the appeal proposal. This therefore limits the weight that I can give these matters in my consideration of this appeal, which has, in any event been determined on its merits.
13. In light of the foregoing I conclude that the proposed advertisement would be harmful to the visual amenity of the area, in conflict with the Policy DES 8 of the Westminster Unitary Development Plan (January 2007) (UDP) which seeks for advertisements to be well designed and sensitively located within the street scene and the guidance contained within the Advertisement Design Guidelines (ADG). There would also be conflict with the aim of UDP Policy DES 1 which seeks to preserve or enhance the townscape of Westminster. The removal of existing payphone kiosks and associated advertisement material does not outweigh the harm identified.
14. Although I have found that harm would result to the visual amenity of the area, this harm would not extend to reducing the significance of nearby heritage assets because there would be sufficient separation distance between the new advertisement and the MSCA and the listed buildings at Nos 46-53. Moreover, the frequency that the advertisement could change could be controlled by a suitable worded condition in the event that the appeal was allowed. The proposal would not harm the settings of these heritage assets. In this regard there would be no conflict with the aims of Westminster City Plan (November 2016) (CP) Policies S25 and S28 or the aims of Policies DES 9 and DES 10 of the UDP which collectively require that Westminster's heritage is respected.

Appeal B

15. The appeal site is located just off Oxford Street, on Portman Street in front of commercial premises, close to the boundary with the Portman Estate Conservation Area (PECA).
16. The PECA includes parts of Oxford Street which is a thriving retail area with a mix of historic and modern high rise buildings, displaying a range of advertisements, both illuminated and non-illuminated, both upon buildings and upon street furniture and structures. Portman Street and the area to the

north, is a mix of residential and commercial premises with more restrained advertisement material, including fascia signs, projecting signs and advertisements on the existing call boxes and bus stops.

17. The proposal would introduce an intrusive, tall illuminated advertisement upon the pavement of Portman Street in a prominent position which would detract significantly from the character and appearance of the area. It would introduce an alien form of advertisement material in close proximity to the boundary of the PECA which would be highly visible from parts of Portman Street, within the conservation area. The advertisement would reduce the significance of this part of the conservation area as a heritage asset because of this harmful proposal in its setting.
18. Given the context within which the advertisement would be seen, it would be poorly designed and sited and would not respect the quality and character of the area within which it would be displayed. This would be in conflict with the guidance contained within the Framework at paragraph 132.
19. The appellant has drawn my attention to an appeal decision¹ allowing the installation of a payphone advertisement in Oxford Street. The context for this advertisement is one which includes ground floor retail uses which have prominent illuminated retail frontages and side window displays with vibrant illuminated fascia signage. Furthermore, the scale of the structure upon which the advertisement is displayed, particularly its height, varies considerably from that being proposed. Consequently, I am unable to make any direct comparisons with the appeal proposal. Accordingly, I can only attach very limited weight to this matter in my consideration of this appeal.
20. In light of the foregoing I conclude that the proposed advertisement would be harmful to the visual amenity of the area, in conflict with the Policy DES 8 of the Westminster Unitary Development Plan (January 2007) (UDP) which seeks for advertisements to be well designed and sensitively located within the street scene and the guidance contained within the Advertisement Design Guidelines (ADG). There would also be conflict with the aims of CP Policies S25 and S28 and Policies DES 1 and DES 9 of the UDP which jointly seek to achieve high quality design which respects and enhances the townscape of Westminster, including its heritage. The removal of existing payphone kiosks and associated advertisement material do not outweigh this harm. Nor does the alleged social, economic and technological benefits to both local and visiting populations as I have considered the proposal in accordance with the Regulations.

Conclusion and Recommendations

21. For the above reasons, based on the evidence before me and all other matters raised, I recommend that both Appeal A and Appeal B should be dismissed.

J Gunn

APPEAL PLANNING OFFICER

¹ Ref. APP/X5990/Z/17/3182346

Inspector's Decisions

22. I have considered all the submitted evidence, and the Appeal Planning Officer's report, and on that basis, I concur that Appeal A should be dismissed, and Appeal B should be dismissed also.

RC Kirby

INSPECTOR