
Appeal Decision

Site visit made on 31 January 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20th February 2023

Appeal Ref: APP/K5600/Z/21/3289805

Pavement outside 72-74 Notting Hill Gate, London W11 3HT

- 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 Richard Wilson of New World Payphones against the decision of the Council of The Royal Borough of Kensington and Chelsea.
 - The application Ref CA/21/04579, dated 10 July 2021, was refused by notice dated 28 October 2021.
 - The advertisement proposed is a telephone kiosk including integrated digital advertising display. Proposal includes associated kiosk removal.
-

Decision

1. The appeal is allowed, and express consent is granted for the display of an advertisement as applied for. The consent is for 5 years from the date of this decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions set out in the schedule to this decision.

Preliminary matters

2. Notwithstanding the description of the proposal in the above heading, which is taken from the application form lodged with the Council, my decision relates solely to the merits of the proposed advertisement.
3. Reference is made to various planning policies, to which I have had regard as relevant considerations. Powers under the Regulations to control advertisements may only be exercised in the interests of amenity and public safety, taking account of any material factors. In my determination of the appeal, the planning policies have not therefore by themselves been decisive.

Main issue

4. The Council raises no issue in relation to public safety. From the submitted evidence, I have no reason to disagree with that finding. Accordingly, the main issue is the effect of the proposed advertisement on amenity.

Reasons

5. The proposal is an internally illuminated digital advertising display integrated within a replacement telephone kiosk on the footway close to the junction between Notting Hill Gate and Pembridge Gardens within the Notting Hill Gate Shopping Centre. In this position, the new display would occupy a prominent position in the local street scene. During the mid-morning site visit, I saw that

- the road and footway passing the site were busy as were the adjacent steps leading to the nearby underground railway station.
6. The site is a short distance from but outside the Pembridge Conservation Area and the Kensington Conservation Area. Accordingly, I have paid special attention to the desirability of preserving or enhancing the character or appearance of these Conservation Areas, insofar as relevant to amenity.
 7. The new kiosk would stand to one side the main carriageway with the new advertisement display on its reverse side, primarily to face eastbound highway and footway users. The proposal would display static advertising images in sequence, changing no more frequently than every ten seconds. The illumination brightness of the display would be controlled by a light sensor that monitors ambient light.
 8. On the main approaches to the site, the new advertisement would be seen against the backdrop of shops and commercial premises together with their related signage as well as that of the underground railway station. Around the site, I saw that advertisements were plentiful and varied reflecting the area's strong commercial character. As the new display would be close to the highway, there would be some separation between it and the commercial aspects and signage of nearby premises. However, this arrangement would be beneficial. It would avoid a cluttered appearance to this part of the street rather than give an impression that the new display would be visually disconnected from other existing advertising.
 9. Distant views of the proposal from Pembridge Gardens would be limited because the new advertisement would be 'side-on' with roadside trees and existing signage in the foreground as well as, in all likelihood, parked vehicles and cycles. Oblique views of the new display would be possible from this highway close to the junction with Notting Hill Gate. From this vantage point, the appeal scheme would blend in with the commercial aspects of existing buildings and the signage displayed on the substantial building on the southern side of Notting Hill Gate.
 10. The illumination of the proposal would give added prominence and draw attention to the advertisement, particularly after dark. However, restrictions could be put on the maximum luminance of the advertisement and to ensure that it is not lit intermittently or use a changing light pattern. With these safeguards in place and bearing in mind that highways close to the site are lit, the proposal would not appear overly bright or cause glare.
 11. In that context, the proposal would not be visually intrusive nor an uncharacteristic addition to the local area. It would not have a harmful effect on the street scene or the amenity of the local area. It would not visually 'read' in the townscape as a significant element in the setting of the Pembridge Conservation Area or the Kensington Conservation Area. The character and appearance of each of these Conservation Areas would therefore be preserved.
 12. I shall impose the five standard conditions set out in the Regulations. The consent is for a 5-year time period, as sought. Additionally, conditions are imposed to prevent error or flashing messages, intermittent illumination of the advertisement and any changing light patterns, and also to control the images displayed in the interests of visual amenity and public safety. For the same reasons, a condition is imposed to set the maximum luminance of the

advertisement. Where necessary, I have amended the conditions suggested by the Council to avoid duplication and for clarity and certainty. Subject to these conditions, the appeal is allowed.

Gary Deane

INSPECTOR

Schedule of additional conditions

1. The illumination of the advertisement display shall not be intermittent and there shall be no changing light pattern.
2. The advertisements displayed shall be a series of static images only, which individually feature no moving or apparently moving images including flashing, scrolling three dimensional or video elements.
3. The advertisement displays shall change no more frequently than once every ten seconds and shall not include any animation or exposed cathode tubing.
4. The interval between advertisements shall take place over a period of no more than one second. No visual effects of any kind (including swiping or other animation methods) shall accompany the transition between any two successive displays.
5. The maximum luminance for the advertisement shall not exceed 280cd/m² during the hours of darkness and shall not exceed 2,500cd/m² at all other times.
6. In the event of breakdown, the screen will automatically power-off to prevent flashing error messages being shown.