

Appeal Decision

Site visit made on 20 March 2023

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th April 2023

Appeal Ref: APP/X5210/Z/22/3312856

Bus Shelter outside 202 Haverstock Hill, London NW3 2AG

- 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 Martin Stephens on behalf of JCDecaux UK Limited against the decision of the London Borough of Camden Council.
 - The application Ref 2021/5508/A, dated 13 October 2021, was refused by notice dated 16 November 2022.
 - The development proposed is a single sided, internally illuminated digital screen to the inward face of an existing bus shelter structure.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect on amenity.

Reasons

3. The application was amended before determination to propose only a single digital advert to the covered, inner side of the existing shelter. This formed the basis of the Council's decision and has been the basis for this decision. The proposal is therefore to replace the existing static backlit paper display, on the inner side of the bus shelter, with a digital display, whilst retaining the backlit paper display on the outer facing advertisement that forms the outside end elevation of the existing bus shelter.
 4. Reference has been made to other existing digital displays that have already been approved which I was able to view. The digital displays differ significantly from those of the paper backlit advertisements. The greater contrast between light and dark and the vibrancy of the colours of the electronic displays is much more noticeable. The changing adverts also draw greater attention to the advert screen. The comparison between light levels associated with backlit constant light source adverts and a digital image is not particularly helpful given the very different and changing lighting and colour contrast characteristics. The digital screens do offer a neater advertising solution. They eliminate reflections from the front covers and avoid the sagging of the paper posters within the units which had occurred in a number of bus shelters
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viewed. Overall, they have a neater and more professional appearance but they are also significantly more noticeable and more strident.

5. Whilst they do attract attention much more than the static images, I am also mindful that it has been suggested that the images could be turned off after midnight. Whilst this has not been included within the suggested conditions, it does form part of the appellant's submission. I also note that the appellant's statement suggests that the night-time brightness would be below the normal maximum level of 600Cdm² for the paper posters at a maximum of 400Cdm². The appellant has also suggested that the display can be effectively operated at 250Cdm².
6. The suggested condition relates to a maximum of 2500Cdm² during daylight hours. I understand that the display would be equipped with a mechanism which would constantly monitor ambient light conditions and adjust brightness accordingly. No submissions have been made on the settings for daytime levels other than the maximum limit. I viewed other existing part digital, part backlit paper displays, on a relatively dull day. The light levels, contrast and general brilliance of the digital adverts was significantly more noticeable and outstanding than the backlit paper adverts, certainly when within about 50 metres of the displays. The change in advert added significantly to this.
7. The bus shelter is situated outside 202 Haverstock Hill. The immediate surrounds are included in the council's Local List of non-designated heritage assets. The area is described as having wide pavements with trees and benches and space for café tables, on either side of Haverstock Hill, in front of the parades of shops. The description goes on to advise that the area has a distinctive continental character and is a local landmark and neighbourhood centre. The area is identified as having architectural and townscape significance. This represents a good description of the area. I would add that the focus of the area is the wide pavements and trees, rather than any particular feature within it.
8. As the bus stop and signage are already in place, the proposal would not alter the physical make up of this area. As identified earlier, the digital display would have greater contrast and brighter colours, in effect being more brilliant. It would be much more noticeable because of this and the changing displays. It would however be internal to the open bus shelter, single directional and screened to some extent by the rear screen of the shelter and indeed the people waiting within it. As the structure is located close to the pavement edge and as the pedestrian area is wide, this further reduces the experience of the advertisement for pedestrians to the south and east. There is other street furniture such as benches and a telephone kiosk, together with pavement seating and lighting associated with the commercial properties, window displays, fascia signs and other advertising. Although Haverstock Hill is a relatively wide and busy thoroughfare, this wide area of pavement, provides a relatively low key experience of a small commercial and communal area that is an attractive space for pedestrians to congregate and enjoy, using the public benches or private seating areas.
9. Given the above characteristics, the existing backlit bus shelter signage, although not a positive feature, sits relatively unobtrusively and results in only limited harm to this immediate area. The digital signage would be more

noticeable and more prominent than the paper display and its strident appearance would become the most prominent feature of this area, particularly during periods of low light. The display would detract further from the existing character of this area. This would particularly be the case when approaching on foot from the north as pedestrians are close to the roadside on the narrower pavement, so having clear views towards the bus shelter, before being able to move into the wider area associated with these commercial properties.

10. Restricting the hours of use would be a benefit but this would be essential in any event, given that the changing digital adverts would be particularly noticeable when there was little other activity in the area. It would however offer a benefit over the existing display during those hours. Whilst it has been suggested that lighting levels could be restricted to 250Cdm² during the hours of darkness, given that this type of advert would be more noticeable and dominant than the static display, the lighting levels should be the very minimum necessary for the adverts to be experienced. Whilst it has not been demonstrated to my satisfaction that this suggested lower figure represents that minimum, I acknowledge that this is significantly below other approved signs including the sign outside 140 Haverstock Hill which was allowed on appeal APP/X5210/Z/17/3171221 and has a condition imposing a maximum of 300Cdm².
11. Daytime brightness should similarly be the minimum necessary to experience the advertisement in order to limit the increase in its prominence. The digital adverts I viewed were of a brightness that would be harmful in this location during daylight hours as it would become overly dominant and the most prominent feature of this area. Whilst I note that daytime brightness was a matter that was left to be addressed by a condition in the above mentioned appeal, I consider this site to be more sensitive given its level of community use, focus and enjoyment. In any event, I am unsure daytime lighting level reductions would be able to achieve relative parity with the harm that the existing display already causes so as to prevent any significant increase in harm, without preventing the display from operating effectively. Given this, in this case, I am not satisfied that a condition to require agreement of details of daytime brightness levels or an alternative measure to reduce daytime operational brightness, would be sufficiently precise or reasonable, with regard to effective operation.
12. I conclude that, even if I were to accept that a reduced night time limit of brightness of 250Cdm² would bring parity with regard to the harm that the existing backlit display brings, which I do not consider has been demonstrated, I would still find that the proposal during daylight hours, would result in an unacceptable increase in the level of harm to the visual amenity of this area. The appellant's proposed condition would not address this; and I am not satisfied that a revised condition, without further evidence, would meet the appropriate tests.

Other relevant factors and the development plan

13. The Regulations, the *National Planning Policy Framework* and the *Planning Practice Guidance* require that the display of advertisements is controlled only in the interests of amenity and public safety, taking into account the provisions

of the development plan, in so far as they are material, and any other relevant factors. Public safety has not been raised as a concern.

14. Reference has been made to the ability of the proposed displays to provide interactive functions and the capability to display live travel status updates and tourist information in addition to commercial messaging, including in the event of an emergency. It is suggested that the council would be able to override the commercial messaging to display important public information via a secure portal. No information has been provided as to how this would be controlled or what access to such a capability would be available to the council. This is not a matter covered by the appellant's or the council's suggested conditions. I am unclear if this facility is available or is being utilised within the existing approved digital displays elsewhere. Despite this uncertainty and lack of information, as the potential benefits have not been challenged by the council, I afford them significant weight. Similarly, the appellant advises that the proposal results in efficiency savings in operational costs and the reduction in waste generation.
15. I must consider whether the proposal would result in harm to the setting of the Belsize Conservation Area as a relevant factor. The boundary of the conservation area includes the pavement and properties on the opposite side of the road. The screen sits perpendicular to close views from that area and would therefore be relatively unnoticeable. From further north, the views out of the conservation area would be longer and the display would only have a marginal impact on the experience of the conservation area when within it. Given the particular arrangement of street furniture and the internal nature of this panel within the bus shelter, it would similarly have only a very limited impact on the conservation area when experiencing it from this side of Haverstock Hill. However, it would result in some harm to the setting of the conservation area and I am not satisfied that there is clear and convincing justification for this.
16. Given the harm to visual amenity, the proposal would be contrary to policy D1 (a & b) (Design) of the Camden Local Plan 2017. The more strident visual impact would result in harm to the character and appearance of this area which is a non-designated heritage asset and I have also found that there would be harm to the setting of the conservation area. Despite the potential for information display and the neater form of the adverts which may be more sustainable, I am not satisfied that the public benefits or other matters, outweigh these concerns. The proposal would therefore also be contrary to policies D2 (Heritage) and D4 (Advertisements). I also find conflict with the similar requirements of national policy set out within the Framework.
17. Reference has been made to other decisions relating to advertisements. Those presented by the Council that relate to telephone kiosks are not directly comparable as the presence of an existing similar sized advert is a key consideration in this case. I have found the dismissed appeals relating to 242 Haverstock Hill (APP/X5210/Z/17/3171237) and 176 Haverstock Hill (APP/X5210/Z/17/3171208) also to be materially different as the details indicate that the bus shelters did not include sides that contained adverts and represented entirely new adverts and side structures. I have already referred to the allowed appeal APP/X5210/Z/17/3171221 which has a number of similarities although that proposal was to replace a consent that allowed for rolling adverts which present greater similarities with a changing digital display.

The setting of that bus shelter is however significantly different and experienced in a different manner compared to the more communal setting of the current proposal.

18. None of the decisions referred to suggest that a different conclusion should be reached in this case. Having viewed a number of bus shelters on the appellant's Upgrade List which already include a digital screen, I am also satisfied that this location differs significantly from the surrounds of those advertisements.
19. In conclusion, the proposal would result in unacceptable harm to visual amenity. Whilst I have considered the matters put forward and the other considerations and relevant factors, they do not outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR