



Appeal Decision

Site visit made on 30 May 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2023

Appeal Ref: APP/K5600/Z/22/3311265

Land Adjacent to 254 Portobello Road, Kensington and Chelsea, London W11 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 London Lites Ltd against the decision of the Royal Borough of Kensington and Chelsea.
 - The application Ref CA/22/05172, dated 17 August 2022, was refused by notice dated 17 October 2022.
 - The advertisement proposed is described as 'One Freestanding LED Digital Advertisement Display.'
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration where relevant. However, powers under the Regulations¹ to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

Main Issue

3. The Council has raised no objection in respect of public safety, subject to conditions. I observed nothing which would lead me to dispute this conclusion. Accordingly, the main issue in this case is the effect of the proposed advertisement on the visual amenity of the area.

Reasons

4. The appeal site is located in a section of Portobello Road where properties lining the road are interrupted by the Westway flyover and a railway bridge. The bridge and flyover provide the backdrop of the appeal site which also includes a metal security fence mounted on a wall. The appellant describes the site as vacant and overgrown. However, the trees and vegetation visible above the metal fence soften the industrial features of the site. These verdant features also screen sections of the bridge.
5. The road south of the appeal site and the bridge, comprises mainly street facing terraces, with residential units at upper floors and commercial premises

¹ Ref: The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

at street level. As such commercial uses dominate the street scene, and this is particularly so on market days. These permanent commercial premises are predominately small independent retail and food outlets. While this creates a vibrant mix of signage, advertisements are largely limited to relatively small, non-digital fascia signs. In this regard, advertising in this section of Portobello Road strongly reinforces the locally distinctive small scale, independent commercial character of the area.

6. The immediate foreground of the appeal site is dominated by the access to the local recycling centre. This centre is behind a relatively modern apartment block fronting Tavistock Road and enclosed by tall palisade gates. As such, the access to the centre has an industrial quality, and this contrasts unfavourably with the generally pleasing appearance of the street scene south of the appeal site.
7. The proposal would be a slim line, advertising panel, and the appellant states this would be one of the smallest forms of roadside outdoor advertisements. However, the proposed display panel would be significantly larger than the fascia signs which are common in this area. Moreover, the advertisement would be internally lit, with the panel displaying static images that would change sequentially. In this regard the proposal would introduce a large form of advertising of a distinctly different style to the advertising that currently characterises the area.
8. Planning Practice Guidance (PPG) states that an advertisement could be acceptable in an industrial or commercial area of a major city (where there are large buildings and main highways). However, this support for advertisements in cities is qualified, with the PPG stating that this is acceptable where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.
9. The proposed advertisement would be surrounded by relatively tall built forms. As a standalone structure, it would not harmfully add to clutter in the street. However, it would have an elevated position on a wall, and would be clearly visible when walking northwards along this part of Portobello Road. Moreover, the proposed advertisement's style and size would appear a jarring contrast with the existing small-scale advertisements that positively characterises this area. The proposal would fail to assimilate with existing advertisements in the area in these respects.
10. Also, the sizeable panel would screen some of the vegetation at the appeal site, and the proposed stridently commercial form of advertising would contrast unsympathetically with the remaining verdant features visible around the proposed display panel. Furthermore, as a discordant feature in this street, the advertisement would draw attention to, and amplify the existing negative industrial features near the appeal site. In these regards the proposal would adversely affect the visual amenity of this neighbourhood.
11. The appellant highlights that the proposed advertisement would be viewed in the context of a busy well-lit urban street. This may be so, but existing light sources in the street, which include streetlamps, car headlights and shop fronts, are distinctly different to the texture and quality of lighting in a large LED panel displaying changing images.

12. I note the advertisement would include light sensors that would react to the ambient light levels, and that the lighting levels would be guided by the Technical Notes on The Brightness of Illuminated Advertisements – Technical Note 5. Also, image changes on the proposed panel would be instantaneous and there would be restrictions in respect of animation and movement. The appellant is also willing to accept conditions that would ensure that the light level of the advertisement is lower than standard. However, conditions limiting the frequency that images change and ensuring stated luminance levels would not mask the large, overtly commercial quality of this style of advertising and the harmful effect it would have on the visual amenity of the area.
13. The proposal would include a graffiti and vandal resistant, copper coloured, robust boundary fence, which the appellant asserts would be a benefit. Even if I agreed that this would be the case, any benefit would be reduced by the presence of the incongruent style of the advertisement. Moreover, no compelling evidence has been presented that this visually harmful proposal would be the only means of addressing unwanted graffiti in the area.
14. Also, as an incongruent addition to the street scene, it is unlikely that the advertisement would be a reason that pedestrians would be encouraged to continue along Portobello Road to businesses, including Goldborne Market, beyond the bridge. These matters do not weigh in favour of the proposal for these reasons.
15. The appellant states that this style of advertising is common in London and that the appeal site is located in an extremely popular Central London area. However, Portobello Road is popular due to its distinct retail quality and local markets. The proposal would introduce a large, corporate style of advertising that would not harmonise with the existing small and individual, commercial aesthetic of the road and its markets. In this regard the proposal would visually harm the distinct local character which attracts so many visitors to this area. This matter has not altered my findings in this case for this reason.
16. In light of the above, the proposed advertisement would have a harmful effect on the visual amenity of the area. While not decisive, the proposal would conflict with Policy CR4 of the Royal Borough of Kensington and Chelsea Local Plan (Local Plan). This Policy, amongst other matters, requires that advertisements and signs are carefully controlled to avoid clutter to support the Council's aim of driving up the quality of the borough's streetscape. The proposal would also not accord with the National Planning Policy Framework which seeks well-designed places.
17. Local Plan Policies CL1, CL2, and CL11 relate to development as opposed to advertising, and have not been determinative in this case.

Other Matters

18. The appellant states that the lighting from the advertisement could improve pedestrian safety in this area. However, with the suggested controls on luminance levels and the proposed position of the advertisement, it would unlikely improve lighting under the bridge. Moreover, the installation of the advertisement and the replacement fence would not resolve the physical barrier of the bridge and flyover that the Local Plan identifies as appearing intimidating to pedestrians. I attach limited weight to this matter for this reason.

19. The proposal would not obstruct pedestrians and the Council has not raised concerns about transport or highway safety. However, advertisements should not cause harm in respect of these issues. These are neutral factors for this reason.
20. The appellant has drawn my attention to the energy efficiency of the digital panel and the reduced vehicle miles and carbon savings that would result from its remote operation function. Advertisements of this nature reduce waste and the use of paper. There could also be economic benefits from the advertising, although limited evidence has been presented about how the advertisement would support the night-time economy. Even if I accepted it would, this matter is outside the scope of the Regulations that govern advertisements, and this is the case for the other benefits identified above. These matters do not weigh in favour of the proposal for this reason.

Conclusion

21. For the reasons given above the appeal is dismissed.

A J Sutton

INSPECTOR