



Appeal Decision

Site visit made on 11 July 2024

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/K5030/Z/24/3343907

Telephone Box Outside 26 – 30 Holborn Viaduct, London EC1A 2AT

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr Nathan Still (In Focus Network Limited) against the decision of City of London Council.
 - The application Ref is 23/01212/ADVT.
 - The advertisement proposed is described as “six sheet affixed to the telephone call box”
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Decision

1. The appeal is allowed and express consent is granted for the installation and display of an internally illuminated advertisement display panel on a telephone kiosk measuring 1.95m high and 1.2m wide at a height above ground level of 0.3m at Telephone Box Outside 26 – 30 Holborn Viaduct, London EC1A 2AT in accordance with the terms of the application, Ref 23/01212/ADVT, dated 8 November 2023. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in Schedule 2 of the 2007 Regulations and the following additional conditions:-
 - 1) The advertisement permitted by this consent shall only be illuminated during the hours of 0601 to 2359, and the intensity of its illumination shall be no greater than 300cd/m² during the period between dusk and dawn.
 - 2) The advertisement shall display no special visual or lighting effects of any kind during the time that the advertisement is displayed or on transition between advertisements. The displayed image shall not include animated, flashing, scrolling, intermittent or video elements and the transition between successive images shall not include fading, swiping or other animated transition methods. There shall be no sequencing of messages relating to the same product.
 - 3) The minimum time between successive displayed images shall be 10 seconds and the transition shall take place over a period not exceeding 1 second.

Procedural Matters

2. I have used the description of the advertisement from the application form in the banner heading above. However, both the decision notice and the appeal form include a more accurate description of the advertisement as applied for. Accordingly, the appeal is considered on the basis of that more accurate description, which is also used in the formal decision above.

3. Although differing postcodes are given in the various submitted documents, I have used the one from the decision notice in the banner heading above, which is the same as the one given in the appeal form.

Background and Main Issue

4. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) and the National Planning Policy Framework are clear that advertisements should be subject to control only in the interests of amenity and public safety. The Council is of the view that the proposal would not lead to any adverse public safety effects, subject to imposing conditions which would restrict moving images and special visual effects. From my observations onsite, I have no reason to reach differing conclusions on this matter.
5. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) is clear that the duty to give special regard to preserving a listed building or its setting (s66(1)) only applies when considering *a grant of planning permission for development*. Moreover, the s72(1) duty for a decision-maker to give special regard to the preservation or enhancement of conservation areas relates specifically to proposals for sites *within conservation areas*. Neither of these statutory duties therefore applies to this appeal as the site is not within a conservation area, and is not related to an application for planning permission. I have however, taken into account the various heritage assets in the vicinity of the site in an assessment of its visual amenity effects.
6. It follows from these considerations that the main issue in this appeal is the effect of the proposed advertisement on the visual amenity of the area.

Reasons

Site, surroundings and proposed advertisement

7. Situated on Holborn Viaduct, a wide thoroughfare, bounded in the main by a mixture of historic and modern multi-storey buildings, the appeal site is currently occupied by a telephone kiosk with an integral advertisement panel, which hosts printed displays. I saw other illuminated digital signs, similar in scale to the proposal, at bus shelters – one across the road from the appeal site and another close to the nearby City Thameslink Station.
8. The appeal site is adjacent to the Viaduct and Pavillions (listed at Grade II), with their large statues and tall lamp standards of high artistic and aesthetic quality being particularly eye-catching features, which also point to historic figures and functions associated with the City. Other listed buildings in the wider environs of the appeal site include the Prudential Assurance Buildings (Grade II*), the Church of St Sepulchre (Grade I), the City Temple (Grade II) and the Viaduct Public House (Grade II). They are a varied collection of buildings, of differing scales and periods, interspersed with more modern structures, which point to an evolving urban setting to these assets over time. Whilst varied they are all of a larger scale than the appeal proposal, and are of high architectural quality – two features of their special interest and significance that contribute to the visual amenity of the streetscene.
9. Whilst the appeal site is not within a conservation area, it is intervisible to some degree with the Smithfield Conservation Area, the Postman's Park Conservation Area and the Newgate Street Conservation Area. Of these, the

Smithfield Conservation Area is the one that has the strongest visual relationship to the appeal site, with the dramatic expansive roofscape of the General Market forming a backdrop in views of the appeal site from close quarters. Of relevance to my assessment is the extract provided by the Council from the Smithfield Conservation Area Character Summary & Management Strategy Supplementary Planning Document (SPD), which identifies the 'distant' view from the Viaduct close to the appeal site as one that strongly contributes to the character of the area. I have also taken into account the extracts supplied from the Newgate Conservation Area Character Summary and the Postman's Park Conservation Area SPD in my assessment of the proposals.

10. The proposed advertisement would relate to a consented kiosk that would replace the existing one (Council reference: 23/01211/FULL). It would consist of a standard "6 sheet" advertising panel incorporating digital displays.

Visual Amenity

11. The proposed advertisement would relate to a consented structure, which would replace one that is in situ and of a very similar character and design. That existing kiosk at the site also includes advertising, albeit I saw that it is not apparently illuminated, and unlike the current proposal uses traditional printed displays. Other digital advertisements of a similar scale are, however, integrated into bus shelters elsewhere along Holborn Viaduct. I saw that the existing sign at the appeal site, and those on bus shelters elsewhere in the immediate streetscene are small-scale street-level items that do not unduly compete with the high-quality statuary, imposing buildings and dramatic roofscape present in their surroundings.
12. I consider that the very high architectural and artistic qualities of the prevailing streetscene mean that the eye would be drawn to the features that contribute to it, with the proposed advertisement, at most, being a momentary distraction, which would not unduly compete with, detract from or obscure any of those features. Indeed, in terms of several of the listed buildings mentioned by the Council, the proposed advertisement due to its diminutive size and remoteness from them would mean that its visual effects would be minimal.
13. Conditions could be used to control the luminance of the proposed advertisement, which would ensure that it would not appear as a strident element in the streetscene. This taken together with its siting at a lower level to the lamp standards on the Viaduct would mean that it would not detract from them at the times when they are illuminated. Moreover, the appeal proposal would not unduly intensify the dispersed placement of digital displays along the road, particularly as they are street-level features in a wide thoroughfare, with considerable separation distances between them, within a wider streetscape of much taller structures. It follows that the proposal would not therefore be excessive or obtrusive, and would not lead to a cumulative erosion of the visual amenity of the area.
14. I note that some appeal decisions¹ referenced by the Council have found that similar advertisements relating to other sites in the City would have harmful visual effects, including to conservation areas adjacent to those sites.

¹ APP/K5030/Z/17/3180953; APP/K5030/Z/18/3212594; APP/K5030/Z/18/3212600; APP/K5030/W/18/3212609; APP/K5030/H/18/3212598; APP/K5030/H/18/3212604

However, each proposal is to be considered on its own merits. In this case, for the reasons set out above, the proposed advertisement would not cause material harm to the visual amenity of the area. I therefore find no conflict with Policies CS10, DM10.6, DM12.1, DM12.2, DM12.3 of the City Plan, or with Policies D8 and H1 of the London Plan insofar as they are relevant to a consideration of amenity matters. Taken together, and amongst other things, the policies seek to ensure that advertisements respect the restrained character of the City, that harm to heritage assets is avoided, and that lighting should be carefully considered.

Conditions

15. The Framework indicates that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and the proposal to be permitted, enforceable, precise and reasonable in all other respects. I have assessed the suggested conditions on this basis. Where they are attached, I have made amendments to the suggested wording in some instances in the interests of clarity and precision and to ensure that conditions are kept to a minimum. I have taken into account the extracts provided by the Council of the City of London's Lighting SPD (the Lighting SPD) in my assessment of the conditions and the proposal.
16. I have attached a condition relating to the illumination of the consented sign in the interests of the amenity of the area. This requires the illumination to be switched off during the night-time hours in line with the appellant's Covering Letter, which gives a more precise set of parameters than those suggested by the Council in this instance. I accept that there may be some times in the early hours of the autumn and winter months where the permitted luminance may exceed the suggested maxima for the Lighting SPD's lighting 'curfew' period which is from midnight to sunrise. However, I consider that no undue harm to amenity would arise as a result of these relatively limited instances.
17. Conditions restricting special visual and lighting effects and relating to transitions of content are attached in the interests of public safety to ensure that road users are not unduly distracted by the consented advertisement.
18. The Lighting SPD's suggestions relating to colour temperature appear to relate to illumination associated with lighting schemes for buildings rather than advertisements. This consideration, taken together with the other restrictions on luminance that are imposed mean that I am not persuaded that the Council's suggested condition relating to colour temperature is necessary in this instance. Moreover, the suggested restrictions on light spill appear to go beyond those expressed in Table 10 of the Lighting SPD as the condition as drafted would apply to all times the sign is illuminated rather than the suggested 'curfew' hours. Consequently, it has not been demonstrated that such a restriction is reasonable in this instance, and I have not therefore attached the suggested condition.

Conclusion

19. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR