



Appeal Decision

Site visit made on 30 July 2024

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 6 August 2024

Appeal Ref: APP/X5990/Z/24/3344729

London Palladium, 7-8 Argyll Street, City of Westminster, London W1F 7TF

- 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 LW Theatres Limited against the decision of City of Westminster Council.
 - The application Ref 24/00526/ADV, dated 24 January 2024, was refused by notice dated 27 March 2024.
 - The advertisement is described as 'Use of existing LED advertising screen at high level measuring 2.8m X 6m.'
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Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement as applied for, namely; the use of existing LED advertising screen at high level measuring 2.8m X 6m. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following two additional conditions:-

(vi) The screen must only be used for the display of sequential static advertisements. The displays must not contain any motion video imagery and any message must remain static for the period of display. The duration of display of each static image must be no less than 12 seconds.

(vii) Within three months of consent being granted, a management plan for the operation and maintenance of the screen, including details of how the brightness and colour intensity of the display can be adjusted to prevent harm to the amenity of the occupiers of neighbouring buildings and to prevent colour being reflected on the facades of nearby buildings, shall be submitted to approved in writing by the local planning authority. The display shall thereafter be operated and maintained in accordance with the approved management plan.

Background and Main Issues

2. Regulation 3(1) of *The Town and Country Planning (Control of Advertisements) (England) Regulations 2007* (as amended), Paragraph 141 of the *National Planning Policy Framework* (the Framework), and the national Planning Practice Guidance¹ (the Guidance), set out clearly that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

¹ Planning Practice Guidance, Paragraph: 026 Reference ID: 18b-026-20140306 Revision date: 06 03 2014
[Advertisements - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/advertisements)

3. The Guidance goes on to set out that: *'Unless the nature of the advertisement is, in itself, harmful to amenity or public safety, consent cannot be refused because the local planning authority considers the advertisement to be misleading (in so far as it makes misleading claims for products), unnecessary, or offensive to public morals.'*²
4. The main issues in this case are the effect of the advertisement with specific regard to amenity and public safety.

Reasons

5. The advertisement is currently in situ, having gained consent in 2017. It comprises an LED screen approximately 2.8 metres by 6 metres. This is set within a façade wall, which itself is a 'hall of fame' art installation; featuring an array of faces of stage stars, on the site of No.23 Great Marlborough Street. Behind the façade facing Great Marlborough Street, there is a metal framed structure, with the stage and scene delivery yard behind. This can be seen in photos in the Appellant's *Heritage Statement*, dated July 2023, on pages 58 to 62.
6. The appeal site is located within the Regent Street Conservation Area and adjacent to the Soho Conservation Area. The appeal site itself, The London Palladium Theatre, is a Grade II* Listed Building. The advertisement for which consent is sought for is attached to a recent addition to the listed building, as detailed within the *Heritage Statement*.
7. I note the Council's points in terms of the existing street scene and the location of advertisements on nearby buildings. For example, the shop fronts (which are at ground level) on Carnaby Street and along Great Marlborough Street. In those cases, most advertisements are located within the traditional frieze or fascia area of the frontage. There are, however, some limited examples of advertisements located above this level. This can be seen adjacent to the illuminated screen with the words 'The London Palladium' and on the opposite side of Great Marlborough Street with 'Liberty' both of which are in individual lettering.
8. During my site inspection, I saw that the building styles along the northern side of Great Marlborough Street comprise a mixture of styles, including the Art Deco style Palladium House, the Georgian / Victorian / Art and Crafts era frontage of the 'rear' of The London Palladium, the modern 'wall of fame' façade, and then the Baroque style buildings further to the east of the site on Great Marlborough Street. Cumulatively, the above factors give this part of Great Marlborough a distinct and mixed character and appearance which contrasts with the uniformity of the Grade II* 'Liberty' building or the buildings along the A4201 (Regent Street), at the western end of Great Marlborough Street, for example.
9. In terms of the Regent Street Conservation Area, this is reasonably large with Regent Street forming a spine along which the conservation area spans. The spine of the conservation area comprises mainly Beaux Arts style buildings³. In contrast, the appeal site to which the advertisement relates, is not formed of a Beaux Arts which conforms with this aspect of the wider conservation area. Similarly, both Palladium House (Grade II), which is of an Art Deco style, and

² Ibid.

³ See Heritage Statement July 2023, page 73

Liberty which is a timber framed Tudor-style building built in 1922-24, contrast with the prevailing Beaux Arts style of the wider conservation area. Indeed, partly because of their contrasting appearance and design, both act as distinctive landmarks within this part of the conservation area, underlining the fact that the conservation area does not comprise a homogenous style or form of building.

10. The advertisement in this case has been situated in this location for what appears to have been a period of six or seven years. It shows illuminated static images for a specific period, with no videos or moving images shown. When viewed from the opposite side of the street, from nearby approaches from the east, west or south, and when viewed from the nearby listed buildings, the advertisement appears as an integral part of the 'wall of fame' art installation.
11. It is an incongruent feature insofar as most other advertisements in the area are of the more aesthetically restrained traditional style. However, there is not a prevalence of such similar features within the wider street scene. What this means in practice is that most viewers will view the advertisement as part of the 'wall of fame' artwork rather than as a garish advertisement. When considered in its context, the advertisement for which consent is sought presents a limited intrusion into what is already a varied and richly mixed part of the street scene.
12. In terms of public safety, I note the site's location near to a well-used zebra crossing and adjacent to the highway of Great Marlborough Street and Carnaby Street. However most users are unlikely to be overtly distracted by the screen given that it would only use static images for a period of around 12 seconds. The time and nature of the advertisement is unlikely to impede or affect motorised and/or pedestrian safety in using or crossing the highway.
13. I acknowledge the Council's concerns in terms of the content of the screen. However, as noted above, consent cannot be refused because the content is considered as unnecessary. That said, the use of static images only on the screen, as suggested by the Applicant, rather than motion video or similar images would assist in minimising any impacts on amenity or public safety arising from the eye-catching ability of such pictures.
14. Accordingly, I find that the advertisement would, at the very least, preserve the character and appearance of the Regent Street Conservation Area. For similar reasons, I find that the advertisement would not have an adverse effect on the nearby listed buildings in terms of amenity. Furthermore, I do not find that the advertisement would have an adverse effect on amenity or public safety. I note the objections from the local amenity society, but do not find that these override the conclusion of my assessment above.
15. The statutory five standard conditions set out in the Regulations should be imposed. Furthermore, in this instance, additional conditions should be imposed in respect of the screen only being used to show sequential static advertisements and that a management plan should be submitted and approved in relation to brightness and colour intensity of the display. These would not only be in broad conformity with the original consent granted back in 2017, but also ensure that the screen display would not result in any adverse impacts on amenity or public safety. It would also ensure that the screen conforms with relevant planning policies for the area. These two additional

conditions are therefore necessary and reasonable in this case. To avoid confusion, these conditions are numbered roman numerals 6 (vi) and 7 (vii) in the above decision section of this decision letter.

Conclusion

16. I have taken into account policies 38, 39 and 43(G) of the Westminster City Plan 2019-2040 (adopted April 2021) which seek to protect amenity and ensure public safety and so are material in this case. Given I have concluded that the proposal would not harm amenity or public safety, the proposal does not conflict with these policies.
17. For the reasons given above I conclude that the display of the advertisement would not be detrimental to the interests of amenity and public safety. The appeal is therefore allowed and consent granted, subject to the standard five conditions and two additional conditions.

C Parker

INSPECTOR