



Appeal Decision

Site visit made on 3 July 2025

by **H Jones BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/X5990/H/25/3360353

Public telephone 53m from 68 Oxford Street 6m from A40, Oxford Street, City of Westminster, London W1D 1BS

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against conditions imposed when granting express consent.
- The appeal is made by Mr Nathan Still (In Focus Public Networks Limited) against the decision of the Council of the City of Westminster.
- The application Ref 24/04517/ADV was approved on 19 December 2024 and express consent was granted for the display of advertisements subject to conditions.
- The advertisements permitted are the display of two internally illuminated LCD screens measuring 1065mm x 1895mm and 392mm x 698mm.
- The condition in dispute is additional condition 1 which states that: *You can display the advert for three years from the date of this letter. You must then remove it without delay.*
- The reason given for the condition is: *So that we can assess the effect of the advert and make sure it meets policy 24, 25, 38, 39, 43 of the City Plan 2019-2040 (April 2021).*

Decision

1. The appeal is allowed and the express consent Ref 24/04517/ADV for the display of two internally illuminated LCD screens measuring 1065mm x 1895mm and 392mm x 698mm at Public telephone 53m from 68 Oxford Street 6m from A40, Oxford Street, City of Westminster, London W1D 1BS, granted on 19 December 2024 by the Council of the City of Westminster, is varied by deleting additional condition 1.

Preliminary Matters

2. The appellant asserts that only one of the LCD screens granted advertisement consent by the Council, the larger of the screens, constitutes an advertisement. However, amongst the plans and documentation before me is the Appendix A Hub Unit Specification and, in explaining the smaller live touch pad screen's capabilities, it identifies its ability to display retail and restaurant recommendations and directive information regarding places and transportation. This evidence leads me to the conclusion that the smaller screen's functionality would in part be for the purposes of, advertisement, announcement or direction. Therefore, on the basis of what is before me, I find that the smaller LCD screen falls within the definition of an advertisement. Therefore, in my decision above, I refer to two advertisements.
3. The advertisements the subject of the appeal are in situ, displayed at the appeal site.
4. Evidence before me indicates that the City of Westminster City Plan 2019-2040 is currently the subject of a partial review, and examination of it has commenced. However, I have limited information before me on the precise stage at which the examination has reached, the level of unresolved objection that there may be to it,

which policies are the subject of the review and the degree of consistency of those policies with the content of the National Planning Policy Framework. Moreover, no policies the subject of the review have been submitted to me in evidence by the appeal parties. In such circumstances, the partial review of the City of Westminster City Plan 2019-2040 is a matter of very limited weight in my decision.

Background and Main Issue

5. The advertisement consent the subject of the appeal was granted subject to 8 additional conditions as well as the standard 5 conditions. Additional condition 1 sets out that the consented advertisements shall only be displayed for 3 years from the date of consent, after which they must be removed. The appellant considers the requirements of additional condition 1 to be unreasonable and unnecessary.
6. Separately, the appellant has also appealed against the Council's decision to refuse to grant planning permission for the communication hub on which the advertisements are displayed without complying with conditions imposed upon a previous planning permission for the hub. This is the subject of a separate appeal decision¹.
7. Given this background, the main issue is whether the disputed condition is necessary or reasonable, having regard to the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations).

Reasons

8. Situated on Oxford Street, the appeal site is within a highly commercialised area. Many advertisements are positioned on the area's commercial premises whilst, within close proximity to the appeal site, Oxford Street is adorned with street furniture such as streetlights, traffic lights and bus stops. Close-by to the appeal site there is another freestanding digital display in situ on the pavement. As a result of this combination of factors, the local area exhibits a very vibrant character and is visually a lively place.
9. The appeal site is not within them but the East Marylebone, Hanway Street and Soho Conservation Areas (the East Marylebone CA, the Hanway Street CA and the Soho CA) are situated close-by. The significance of the East Marylebone CA is largely derived from its architectural and artistic interest: a diverse townscape which exhibits a rich mix of building types and uses together with a dense urban character. That the Oxford Street portions are very busy, yet other areas calmer, also contributes to the significance of the East Marylebone CA.
10. The Hanway Street CA exhibits an eclectic mix of architecture and attractive street frontages which represent high quality commercial architecture. Therefore, its significance is also principally derived from its architectural and artistic interest. The CA also has a bustling character.
11. Finally, Soho is a renowned centre for entertainment and this vibrant character contributes greatly to its character. The narrow street patterns, dense built form and mixed character of its buildings provide the Soho CA with architectural and artistic interest as well.

¹ Appeal Decision Reference APP/X5990/W/25/3363365

12. Owing to the digital nature of the displays, the advertisements are not very recessive, and they have some prominence. However, in considering the acceptability of the visual effects of digital advertisements the context within which they are situated is key. In this case, because of the character of the local area, the advertisements are not harmfully strident, nor do they appear out of keeping with the area. Instead, the adverts are another feature which contribute to the vitality exhibited locally, and they do so in an appropriate rather than an unsympathetic way.
13. Furthermore, since the nearer parts of the East Marylebone, Hanway Street and Soho CAs encompass Oxford Street and its vibrant and commercial character, the advertisements appropriately assimilate into their settings and cause no harm to the designated heritage assets.
14. For these reasons, although the Council cite that the advertisements are highly obtrusive and have a significant impact on visual amenity, in their particular context, they cause no harm to the visual amenity of the area and are acceptable. In addition, having granted express consent, the Council has accepted the effects of the advertisements, albeit for a specified period.
15. Since they are situated within a location with such a commercial character, the advertisements do not appear incongruous. This will ensure highway users are not distracted. I have no reason to conclude that the advertisements are in any way impairing drivers' views or confusing them. Furthermore, the additional conditions imposed on the advertisement consent which are not in dispute include a series of controls on the images displayed to ensure that they are not distracting. For these reasons the advertisements are safe.
16. Additional condition 1 removes the appellant's right, via Class 14 in Schedule 3 of the Regulations, to continue to display the advertisements under deemed consent that would otherwise apply after the expiry of the express consent. Additional condition 1 is not one of the standard conditions to which all advertisements are subject to under the provisions of the Regulations.
17. The Planning Practice Guidance (the PPG) advocates the rigorous application of the tests for the imposition of conditions. In specific regard to advertisements, the PPG sets out that if a local planning authority decides to impose conditions that are additional to the standard conditions, these must be supported by specific and relevant planning reasons. The PPG specifically states that conditions should never be imposed because the local planning authority wishes, as a matter of general policy, to prevent the display of the advertisements under deemed consent following the expiry of the express consent.
18. In this context, for the disputed condition to be necessary and reasonable, I find that firm evidence and convincing reasoning of why the consented advertisements would be unacceptable at the end of the specified 3-year period is required.
19. I have very limited information before me in relation to the pedestrianisation of Oxford Street cited by the Council. This includes no substantive evidence in relation to the likelihood of it coming into fruition, what works it would be likely to entail or any timescales for its implementation. Furthermore, should the cited pedestrianisation occur, I have no convincing evidence before me as to why the advertisements would be very likely to become incompatible with it and unacceptable on either amenity or public safety grounds.

20. Consequently, I conclude that there is no firm evidence or convincing reasoning which supports the case that the consented advertisements would become unacceptable at the end of the specified 3-year period and which justifies that the right to display the advertisements under deemed consent should be withheld.
21. In coming to the above views, I have taken into account Policies 24, 25, 38, 39, 40 and 43 of the City of Westminster City Plan 2019-2040. Amongst other matters, these Policies seek to ensure sensitive design which contributes positively to Westminster's townscape, the conservation of heritage assets and safe and uncluttered streets. Therefore, these Policies are material in this case, and given I have concluded that the display of the advertisements beyond the specified 3-year period would not harm amenity or public safety, the display of the advertisements beyond the 3 years cited by additional condition 1 is compliant with them.
22. As a result, the disputed condition is not necessary or reasonable, having regard to the requirements of the Regulations.

Conclusion

23. For the reasons given, I conclude that the appeal should be allowed and the express consent be varied to remove additional condition 1.

H Jones

INSPECTOR