
Appeal Decisions

Site visit made on 24 July 2025

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 August 2025

Appeal A Ref: APP/X5990/W/25/3361267

Public Telephone 23m from 26 Victoria Street 8m from A302, Victoria Street, City of Westminster, London SW1H 0EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) ("the Act") against a grant of planning permission subject to conditions.
 - The appeal is made by In Focus Public Networks against the decision of City of Westminster Council.
 - The application Ref 24/04522/FULL was approved on 17 February 2025 and planning permission was granted subject to conditions.
 - The development permitted is the installation of an open access communication hub, including the removal of an existing communication apparatus.
 - The conditions in dispute are Nos 2, 3, 4, 5, 6, 7, 8, and 12 which state:
 - (2) *the permitted maximum luminance of the two digital display screens shall not exceed the level of 600cd/m² if illuminated area is less than 10m², if larger its 300cd/m²; during hours of darkness and all specifications shall be in accordance with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's 'Professional Lighting Guide 05 (PLG05): The Brightness of Illuminated Advertisements'.*
 - (3) *the illumination and advertisement/displayed image shall not be intermittent or flashing, not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements), not incorporate changing light patterns, and shall show two dimensional images only. (Please note the illumination of the proposed Hubs will need to adhere to limits of luminance, illuminance and intensity as advised in PLG05 [see Section 5 of Limiting the luminance of illuminated advertisements], and Guidance Note 01: The Reduction of Obtrusive Light).*
 - (4) *no content on the digital display screens shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.*
 - (5) *no audio associated with the advertisements.*
 - (6) *messages relating to the same product shall not be sequenced.*
 - (7) *the advertisements displayed on each panel shall not change more frequently than once every 15 seconds.*
 - (8) *the interval between each piece of content on the digital display screens shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.*
 - (12) *the structure can remain for five years from the date of this letter. After that you must remove it and return the land to its previous condition.*
 - The reasons given for the conditions are:
 - (2) *to protect the visual amenity of the area.*
 - (3) *to protect the visual amenity of the area and in the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021).*
 - (4) *in the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 – 2040 (April 2021).*
 - (5) *to protect the amenity of the area.*
 - (6) *to protect the visual amenity of the area.*
 - (7) *to protect the visual amenity of the area.*
 - (8) *to protect the visual amenity of the area.*
 - (12) *so that we can assess the effect of the structure and make sure it meets policy 24, 25, 38, 39, and 43 of the City Plan 2019-2040 (April 2021).*
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Appeal B Ref: APP/X5990/H/25/3361148

Public Telephone 23m from 26 Victoria Street 8m from A302, Victoria Street, City of Westminster, London SW1H 0EX

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (“the Regulations”) against conditions imposed when granting express consent.
 - The appeal is made by In Focus Public Networks against the decision of City of Westminster Council.
 - The application Ref 24/04523/ADV was approved on 19 February 2025 and express consent was granted for the display of an advertisement subject to conditions.
 - The advertisement permitted is the display of an internally illuminated communication hub measuring 1.67m x 0.935m.
 - The conditions in dispute are additional condition Nos 1 and 7 which state that:
(1) you can display the advert for five years from the date of this letter. You must then remove it without delay; and
(7) the advertisements displayed on each panel shall not change more frequently than once every 15 seconds.
 - The reasons given for the conditions are:
(1) 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); and
(7) to protect the visual amenity of the area.
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Decisions

1. Appeal A is allowed and the planning permission ref 24/04522/FULL for the installation of an open access communication hub, including the removal of an existing communication apparatus at Public Telephone 23m from 26 Victoria Street 8m from A302, Victoria Street, City of Westminster, London SW1H 0EX granted on 17 February 2025 by the City Of Westminster Council, is varied by deleting conditions 2, 3, 4, 5, 6, 7, 8, and 12.
2. Appeal B is allowed and the advertisement consent ref 24/04523/ADV for the display of two internally illuminated LCD screens measuring 1065mm x 1895mm and 392mm x 698mm at Public Telephone 23m from 26 Victoria Street 8m from A302, Victoria Street, City of Westminster, London SW1H 0EX granted on 19 February 2025 by the City Of Westminster Council, is varied by deleting conditions 1 and 7 substituting them for the following conditions:

1) You can display the advert for five years from the date of this letter.

7) The advertisements displayed on each panel shall not change more frequently than once every 10 seconds.

Background and Preliminary Matters

3. The Council granted planning permission subject to several conditions for the development that is the subject of Appeal A. Express advertisement consent was also granted by the Council, subject to the standard advertisement conditions and several additional conditions, for the development described under Appeal B. The development subject to both appeals relates to the same appeal site and a communications hub which has consent for an advertisement also to be displayed.
4. The description of the advertisement permitted set out above has been taken from the Decision Notice; however, the measurement contained within it does not reflect the scheme considered or granted by the Council. In its Officer Report, the proposal is described as the “display of two internally illuminated LCD screens measuring 1065mm x 1895mm and 392mm x 698mm.” This reflects the plans. As I have the power to deal with the application as if it had been made to me in the first

instance, I shall consider the appeal based on the revised description of development that reflects the scheme submitted to and considered by the Council. This reads as per the description in the Officer Report. I have used this in my formal decision.

5. The appellant contends that conditions 2 to 8 on Appeal A do not satisfy the test of 'necessary' for the imposition of planning conditions, as they repeat those applied to the grant of advertisement consent. They also consider that condition 12 on Appeal A is not 'reasonable' given that the development would replace a telephone kiosk that has been in situ since 2010 through a grant of planning permission. As such, the appellant seeks the removal of these planning conditions.
6. The appellant also says that additional condition 1 on Appeal B is not 'necessary' or 'reasonable' as it would deprive the appellant of its right to retain the advertisement under deemed consent at the end of the express consent period and frustrate the operation of Class 14 in Schedule 3 of the Regulations. Moreover, the appellant contends that additional condition 7 is overly restrictive in terms of the frequency at which advertisement displays can change and is not 'reasonable' or 'necessary'. The appellant seeks to vary both conditions by removing 'you must then remove it without delay' from additional condition 1 and changing the time period in additional condition 7 from 15 seconds to 10 seconds.
7. The communications hub and adverts that are the subject of Appeals A and B were in situ at the time of my site visit in accordance with the submitted details. I have considered the appeals on this basis.

Main Issue

8. The main issue in respect of Appeals A and B is whether the disputed conditions are necessary, relevant to planning, relevant to the development to be permitted, and/or reasonable.

Reasons

9. The appeal site for Appeals A and B lies on the pavement outside 25 Victoria Street within a busy environment. The pavement is well used by pedestrians and is occupied by a limited amount of street furniture, such as street lighting or bollards. The development granted has replaced an existing kiosk. Advertising in the area is limited or muted, in part reflecting the number of large office blocks that populate either side of Victoria Street.

Conditions 2 – 8 on Appeal A

10. Conditions 2 to 8 relate to the advertisement, so they are not 'necessary' to make the communications hub acceptable in planning terms. Further, they control matters that relate to matters that can be controlled through the Regulations, i.e., advertisement consent, and hence the conditions do not satisfy the 'relevant to planning' test. The conditions do not also satisfy the test of being 'relevant to the development to be permitted' as there is no direct advertisement effect arising from the communications hub on its own. And lastly, the conditions are not 'reasonable in all other respects' as they place additional disproportionate burdens on the appellant i.e. adhere to something that they do not need to do in respect of the hub. Moreover, the Council's concerns relate to the adverts, not the hub itself.
11. I conclude that conditions 2 to 8 on Appeal A are not necessary, relevant to planning, relevant to the development to be permitted, and reasonable. There

would be no conflict, where relevant, with Policies 24 and 25 of the City Plan 2019 – 2040 (“City Plan”) as a result. These policies aim to promote sustainable patterns of travel, prioritising walking and cycling, creates safer streets for all and maintaining and enhancing Westminster’s places and streets as one of the most attractive and liveable areas in London.

Condition 12 on Appeal A

12. The communications hub is of a different design and size despite its similarity to the previous kiosk. Nevertheless, permanent planning permission was sought for it to replace the former kiosk, which had been in situ since 2010 after the grant of planning permission. The former kiosk was an accepted element of street furniture and thus the character and appearance of the area. The hub is not dissimilar in its size, design or purpose to the former kiosk. It reflects the area’s local context, could be removed quickly, and it minimises pedestrian obstruction. There would also be no effect on any heritage assets. I therefore disagree with the Council that a trial run is necessary to determine if the development’s effect is reasonable and appropriate. The planning circumstances are also unlikely to change by the end of the temporary period given that the development plan period extends up to 2040 and the size, design and purpose of the communications hub will remain the same.
13. While any planning permission granted would be a material consideration in the assessment of any future application, I conclude that condition 12 is not necessary as the development is acceptable having regard to City Plan Policies 24, 25, 38, 39, and 43. These policies, among other things, seek development to contribute to a well-designed, safe, attractive, clutter-free public realm with use of high quality and durable materials capable of easy maintenance and cleaning.

Condition 1 on Appeal B

14. The Council states that the reason why this condition is necessary is so that it can assess the effect of the advert and to make sure it meets several development plan policies. However, having found the advertisements to be acceptable in amenity terms, there is no substantive evidence to indicate why they are likely to be unacceptable at the end of the five-year period. Nor does it appear that the development plan policies cited in the reason for condition 1 would change in this period. The draft City Plan Partial Review, which has been submitted for Examination in Public seeks to update policies in respect of affordable housing, retrofitting and site allocations. None of which would be relevant to the adverts.
15. Hence, it has not been demonstrated why it would be necessary, reasonable or relevant to the development to be permitted to require the removal of the advertisements at the end of the five-year period in the interests of amenity or public safety. As such, the current version of the condition would frustrate the appellant’s ability to retain the advertisements beyond the period of express consent by virtue of Class 14 of Schedule 3 in the Regulations. I will therefore delete the second sentence requiring their removal after the five-year period. Doing so would not conflict with City Plan Policies 24, 25, 38, 39 and 43, which seek, among other things, development to contribute to a well-designed, safe, attractive, clutter-free public realm with use of high quality and durable materials capable of easy maintenance and cleaning.

Condition 7 on Appeal B

16. This condition prevents advertisements from changing any quicker than at 15 second intervals to protect the visual amenity of the area.

17. Both parties have referred to a raft of decisions in support of their respective cases. Notably, they relate to different periods of time. The Council points to advertisement consents from 2021 and 2022 whereas the appellant cites decisions to grant advertisement consent in 2024. There appears to have been a shift in approach from the 15 second restriction commonly applied to decisions in 2021 and 2022 and the 10 second restriction imposed in the 2024 decisions.
18. I understand that this is common practice across London for sequential roadside advertisements to change once every 10 seconds, and this approach has the support of Transport for London, unless specific site conditions indicate a less frequent change would be necessary in the interest of public safety.
19. The Council rightly points out that the difference between a 10 and 15 second changeover is that there would be an additional 2,880 changes over a 24 hour period, which equates to a 50% uplift. However, I do not consider that this would make the advertisements more obtrusive and thus detrimental to visual amenity. Adverts by their nature are designed to draw attention; that is their purpose, and this is a busy environment where advertisements are present, albeit they are not a prominent feature. In fact, they have been present at the appeal site for numerous years. Bearing this in mind, a sequential change every 10 seconds would ensure that the advertisements remain sensitive and respect local context and achieve a good standard of amenity.
20. I conclude that this would be in accordance with City Plan Policies 38, 40 and 43. Jointly, among other things, insofar as they are material to this issue, seek a good standard of amenity through sensitive design that respects local context. Thus, I shall remove condition 7 on Appeal B and replace it with a modified version.

Conclusion on the main issues

21. For the reasons set out, I concluded that conditions 2 to 8 on Appeal A do not satisfy multiple tests for the imposition of planning conditions. I have also found that condition 12 on Appeal A does not pass the 'necessary' test. Therefore, I shall vary the original permission by removing conditions 2 to 8 and 12.
22. For the above reasons I have concluded that additional conditions 1 and 7 on Appeal B should be removed and replaced with modified versions.

Conclusion and Conditions

23. It is not necessary for me to impose any additional planning conditions in respect of Appeal A, but the planning permission granted by the Council will need to be read together with this decision in terms of which conditions now remain. I therefore conclude that the Appeal A should succeed. I will vary the planning permission by deleting conditions 2, 3, 4, 5, 6, 7, 8, and 12.
24. For the reasons given above I conclude that Appeal B should succeed. I will delete conditions 1 and 7 and impose substitute conditions.

Andrew McGlone

INSPECTOR