



Appeal Decision

Site visit made on 20 November 2018

by C J Ford BA (Hons) BTP MRTPI

a person appointed by the Secretary of State

Decision date: 13 December 2018

Appeal Ref: APP/X5210/Z/18/3211241

Public Payphone Kiosk Adjacent to 144 Shaftesbury Avenue, Earlham Street Junction, London WC2H 8HJ

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (‘the Regulations’) against a refusal to grant express consent.
 - The appeal is made by Mr Nathan Still (Infocus Public Networks Ltd), against the decision of the Council of the London Borough of Camden.
 - The application Ref 2017/5184/A, dated 18 September 2017, was refused by notice dated 2 August 2018.
 - The advertisement proposed is display of a single sided LED illuminated sequential display affixed to the frame of the payphone kiosk.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The original application form incorrectly described the kiosk as being located adjacent to No 1 Shaftesbury Avenue. In accordance with the description in the subsequent decision notice and appeal form, the header above refers to the kiosk as being located adjacent to No 144 Shaftesbury Avenue.
3. Whilst the Council state the kiosk is unauthorised, the matter of prior approval is not being considered as part of this appeal. It would require separate consideration.
4. The application form and supporting document both refer to the existing advertisement on the kiosk being displayed ‘pursuant to Class 16’ of Schedule 3 in the Regulations. However, that Class prohibits deemed consent where a kiosk is located in a Conservation Area.
5. The parties have drawn attention to development plan policies and parts of the National Planning Policy Framework, Planning Practice Guidance and local guidance which they consider are relevant to the appeal. Whilst Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to advertisements, the policies and guidance have been taken into account, so far as they are material, in accordance with the Regulations.

Main Issues

6. The main issues are the effect of the proposed advertisement on;
 - i. the visual amenity of the area and,
 - ii. public safety with particular regard to crime prevention.

Reasons

i. Visual Amenity

7. The appeal site is located within the Seven Dials Conservation Area (CA), a designated heritage asset where special attention must be paid to the desirability of preserving or enhancing the character or appearance of the CA. The Seven Dials Conservation Area Statement (CS) sets out that the special character of the CA is found in the range and mix of building types and uses and the street layout.
8. The kiosk is prominently located on a street corner, standing only a short distance away from No 144 Shaftesbury Avenue. No 144 has fine architectural detailing and is identified in the CS as a building which makes a positive contribution to the character and appearance of the CA.
9. There is limited on street advertising in the locality and despite commercial premises occupying many of the nearby ground floor units, illuminated signage is minimal. This is reflective of the guidance in the CS which specifies that internally illuminated box signs are unacceptable and generally signage should be non-illuminated or externally illuminated. The restrained approach to advertisements is a distinguishing element of the character of this part of the CA.
10. Irrespective of whether the existing similarly sized advertisement on the kiosk may benefit from deemed consent outside of Class 16, the appeal concerns an application for express consent in relation to an advertisement that would be illuminated and introduce a different character to the advertising in the locality through displaying sequential static images.
11. Given the restrained approach to advertisements and owing to its prominent position, illumination and display design, it would appear as an unduly dominant and visually incongruous feature in the locality. It would draw attention away and detract from the positive contribution that No 144 makes to the CA.
12. The appellant's willingness to accept a condition limiting the maximum illumination level to 300Cdm² is noted but the detrimental impacts identified above could not be overcome by conditions. Whilst the positive benefits of advertisement displays within a retail environment are acknowledged, the Regulations make it clear that advertisements are subject to control only in the interests of amenity and public safety.
13. It is therefore concluded that the proposed advertisement would have an unacceptably harmful effect on the visual amenity of the area. It would fail to preserve or enhance the character or appearance of the CA. It would conflict with Policies D1, D2 and D4 of the Camden Local Plan 2017 (LP). Amongst

other things, the policies seek to ensure advertisements preserve or enhance the character of their setting and heritage assets.

ii. Public Safety

14. Planning Practice Guidance makes it clear that the prevention of crime is a public safety consideration. However, the kiosk is prominently located next to a busy road. It is observable to passing traffic and overlooked by numerous nearby buildings. Taking this into consideration as well as its open accessible design, it is not a situation that would promote criminal or anti-social behaviour within or around the kiosk.
15. No evidence has been submitted to demonstrate that the glare of the proposed illumination would interfere with any CCTV surveillance. As the additional illumination would create a better lit environment, it would act to deter criminal or anti-social behaviour in the locality.
16. It is therefore concluded that the proposed advertisement would not have an unacceptably harmful effect on public safety with particular regard to crime prevention. It would not conflict with Policy C5 of the LP which promotes safer streets and public areas.

Conclusion

17. Notwithstanding the finding on public safety, the identified harm in respect of the visual amenity of the area is an overriding consideration in this case. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

C J Ford

APPOINTED PERSON