

GROUND OFS OF APPEAL

**Town and Country Planning (Control of Advertisements)
(England) 2007**

London Borough of Camden

Planning Application Reference: 2024/3234/A

73-75 Clerkenwell Road

London EC1R 5BU

11th November 2024

1. Introduction

This appeal is made by London Lites Ltd against the decision of the London Borough of Camden to refuse planning application number 2024/3234/A on 14th October 2024.

The proposal was for the display of a LED (light-emitting diode) digital advertisement display measuring 3.5 metres wide by 6 metres high and an integrated living green wall on the western elevation of 73-75 Clerkenwell Road.

2. Site and Surroundings

The application site is a six-storey building on the south side of Clerkenwell Road. Clerkenwell Road is a well-lit main road running from Gray's Inn Road in the west to Goswell Road in the east. The immediate vicinity of the application site is in mixed use but predominantly a commercial area with offices, shops, restaurants, hotels and a few residential properties overlooking the busy main road. The site is located within the Central Activities Zone and Clerkenwell Road falls within the administrative boundaries of both the London Borough of Camden and Islington. 73-75 Clerkenwell Road is not a listed building.

There are a number of advertisements in the area including illuminated advertisements associated with the retail units in Clerkenwell Road. A nearby digital LED advertisement of a similar size, was granted consent at 96-100 Clerkenwell Road. This advertisement was granted consent in 2015 under London Borough of Islington reference 14/AP/4288 but the advertisement display has recently been removed. Due to this previous planning consent, this proposed advertisement may therefore be appropriate in this location and would not seem out of place in Clerkenwell Road.



Proposed Advertisement

3. The Proposal

With reference to the attached drawings, the current proposal is to erect an advertisement display measuring 3.6 metres wide by 6.37 metres high and green living wall on the western elevation of 73-75 Clerkenwell Road. This proposal will introduce an active and vibrant element to the building which we believe will complement the bustling nature of this part of Clerkenwell Road. The LED advertisement display will show one or more sequential static images.

The proposed advertisement display will be contained within a green wall in order to soften and lessen the impact of the advertisement material. The current appearance of the flank wall is untidy, covered in graffiti and it is not uniform. The wall is partly painted white, partly rendered and partly brick. The provision of the green wall will considerably improve the untidy appearance of this flank wall.

The living wall will provide aesthetic and ecological benefits to the area and in addition, the wall will contribute to air filtration, noise reduction and cooling in hot weather. A modular-cellular system using 0.5m x 0.5m pre-planted panels will be used to facilitate speed of construction of the wall and practicality for maintenance.

The green wall will use predominantly native woodland plants, primarily ferns with seasonal interest added with species such as bergenias, snowdrops and anemones. Sun-loving species such as red fescue, sedum, honeysuckle and vinca will also be used. Irrigation will be provided by emitter line with electronically controlled water collection chambers. Maintenance visits will be carried out monthly to monitor and adjust the irrigation according to the season, calibrate plant feeders, provide any insect control and remove any weed growth. Pruning will be carried out according to the time of year.

The environmental advantages of this new energy efficient digital display, over traditional lightbox advertisements, are that there is no longer a need to print, install and dispose of PVC or paper posters. There is a subsequent minimisation of vehicle miles and CO₂ emissions as there will not be a need to physically change and maintain traditional posters. This LED display will be remotely operated; minimising fuel, traffic and material consumption.

Low energy lighting is desirable and plays a part in addressing climate change. The LED light units of this display are recyclable, as is the aluminium frame of the advertisement panel. These LED digital displays are gradually replacing more traditional advertising panels throughout the UK and they are a familiar feature especially in London.

The proposed advertisement display will show one or more sequential static images and the illumination is not at any time intermittent.

The maximum luminance will be 600cd/m² during daylight hours and 300cd/m² from dusk until dawn. This would be within the luminance levels as recommended by the Institute of Lighting Professionals guide "Technical Notes on The Brightness of Illuminated Advertisements" note 5. Technical Note 5 of these guidelines recommend a maximum luminance of 300 cd/m² during hours of darkness (dusk until dawn). Furthermore, the display will be switched off entirely between midnight and 6am in order to save energy.

The display is controlled by light sensors that vary the brightness of the display according to the ambient light conditions. Therefore, it is reasonable to assume that the luminance of the display will be below the maximum levels for considerable periods. The advertisements and images on the display will not change more than once every ten seconds and any changes of the image will appear instantaneous and take place over a maximum period of one second. The displayed image will be static and will not include any animated, moving, intermittent or video elements.

The LED panels have a safety feature that will turn off the screen, to black, if the display has an error or malfunction.

We believe this proposed advertisement and integrated green wall is of a suitable size, scale and design which is in keeping with the area and surrounding properties. The advertisement display will be slim and straightforward in its overall form and be of the highest possible standard and this scheme represents a substantial investment. This proposal will improve the appearance of the flank wall and will introduce an active and vibrant elevation to the building, which we believe will complement the bustling nature of this part of Clerkenwell Road.

Advertisement displays in commercial areas can contribute to a lively, vibrant, modern and successful economic area and the messages help support retail activity. Clerkenwell Road is in central London and has a thriving economic environment and there is certainly a demand for this type of commercial advertising.

Outdoor Advertising is essential to commercial activity in a free and diverse economy and is an important part of a healthy economy, stimulating consumer demand, attracting investment and in turn creating jobs and generating tax revenues.

4. National Planning Policies and Grounds for Approval

The National Planning Policy Framework 2023 and Planning Practice Guidance Paragraph 079 (updated March 2014) states that an advertisement 'would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site.'

We believe this proposal, in this neighbourhood, adheres to these amenity criteria as Clerkenwell Road is a well-lit main road, in a predominantly commercial area and with large buildings of a substantial scale. 73-75 Clerkenwell Road is a six-storey building and the buildings in the vicinity are between 4 and 6 storeys high and we submit form a substantial and sufficient backdrop for the proposed advertisement. The advertisement display will respect the host building and the advertisement will be easily contained within the building lines of 73-75 Clerkenwell Road.

The advertisement display will occupy approximately 7% of the western elevation of the building and we believe the size of the advertisement display is not excessive. This proposal and particularly the living green wall, will improve the current appearance of the flank wall and will have a positive impact on the vicinity. The advertisement will add an active and vibrant feature to 73-75 Clerkenwell Road, creating a feature in the street scene with colour and interest. We believe that this proposal will integrate with the existing commercial activity surrounding the site.

It is suggested that this is the type of busy main road where well-placed advertisements may be acceptable in the interests of visual amenity.

The National Planning Policy Framework 2023 and Planning Practice Guidance (Revised March 2014) Paragraph 067 states that 'There are less likely to be road safety problems if the advertisement is on a site within a commercial or industrial locality'. We believe this site on a main road corridor in a predominantly commercial locality, conforms to these criteria and it is submitted that the advertisement display does not present a highway safety issue.

The proposed advertisement does not obscure or conflict with any road signs or signals and the long range of visibility gives drivers ample time to assimilate the advertisement material within their normal field of vision. Although the road is busy, traffic speeds are low. The advertisement would be visible only to traffic approaching from the west on Clerkenwell Road. It would be seen from a sufficient distance on a straight road, which, combined with the traffic conditions, would allow adequate time for drivers to take in the advertisement content without causing confusion.

This type of digital advertising display is a common feature in Central London and it is believed that it does not present a road safety hazard.

5. Refusal Notice

Camden Council refused the application on the 14th October 2024 on the following grounds:

"1. The proposed advertisement, by virtue of its size, siting, prominent location on the building and method of illumination, would add prominent visual clutter and appear as an incongruous and unduly dominant addition, which would have a harmful effect on the visual amenity of the host building, street scene, the wider Hatton Garden Conservation Area, contrary to Policies D1 (Design), D2 (Heritage) and D4 (Advertisements) of the Camden Local Plan 2017.

2. The proposed advertisement, by virtue of its size, siting, prominent location on the building and method of illumination, in combination with its proximity to a signalled controlled junction, would introduce a distraction to road traffic, causing harm to highway and public safety, contrary to Transport for London guidance, and Policies A1 (Managing the Impact of Development), D4 (Advertisements) and T1 (Prioritising walking, cycling and public transport) of the Camden Local Plan 2017."

It appears from the case officer report, that there were no objections cited or received from neighbours or the general public about this proposed advertising display and green wall.

6. Grounds of Appeal

Size, Siting and Unduly Dominant

The London Borough of Camden has stated in the refusal notice that the size of the proposed advertisement would be unduly dominant and have a detrimental impact on the visual amenity and host building.

It is submitted that size is a legitimate planning consideration, however 73-75 Clerkenwell Road is a substantial 6 storey building. It is considered that the size of the proposed advertisement is not excessive as the scale and nature of the surroundings is sufficient to accommodate an advertisement display of this size and the advertisement will be viewed and set against the commercial backdrop of Clerkenwell Road.

Whilst all advertisements by their nature are designed to be prominent, the proposed display would occupy only 7% of the area of the western elevation of 73-75 Clerkenwell Road. As the appeal site is a six-storey building this proposal is easily accommodated well within the outline and building lines of the appeal site. The advertisement display has purposely been located as low as possible so as not to be overly prominent or obtrusive.

The height from the ground of the advertisement is three metres which is as low as possible in order not to be overly prominent, whilst at the same time being out of reach of pedestrians at ground level. The advertisement will be near to the roadside, the traffic flow and the existing bustling commercial activity and also be well clear of the roof line. The green wall will soften the impact of the advertisement display.

It is considered that the size and scale of the proposed advertisement is not excessive, will occupy a small percentage of the elevation and be of a size that will fit well within the lines of the host building.

In all the circumstances we submit that the proposed advertisement is not unduly large nor dominant and will respect the host building and will form part of the commercial street scene. The elevation of the building is of a sufficient size and scale to accommodate this advertisement without the display being harmful to the visual amenities of the building and local area.

Incongruous Element

The refusal notice states that the advertisement would be an incongruous element and have a harmful effect on visual amenity.

The appeal site is located in a busy commercial area and there is existing advertising associated with the businesses in this locality. A similar LED digital advertisement was granted planning consent at 96-100 Clerkenwell Road, nearby to the east of this site. This advertisement was granted consent in 2015 under London Borough of Islington reference 14/AP/4288 but has recently been removed. Clerkenwell Road is well lit and there are numerous illuminated advertisements associated with the retail units and street furniture. This may indicate that advertising is suitable in this locality and the advertisement will form part of the commercial character of the street scene. It is intended that this advertisement and living green wall will become a standalone feature of the area and will not increase the 'visual clutter'.

It is suggested that the location of the proposed advertisement is appropriate and not out of place, as the advertisement will be viewed set against the predominantly commercial backdrop of Clerkenwell Road.

We submit that due to the existing and previously approved advertising material on Clerkenwell Road that the proposed advertisement is not an incongruous element and will form part of the existing commercial street scene.

Visual Amenities of the Area

The Council consider that this proposal will have a harmful impact on the visual amenity of the host building and the local area.

The advertisement will respect the host building and the appearance of the surrounding modern and traditional buildings. The advertisement will be viewed against the western elevation of 73-75 Clerkenwell Road and this elevation has no particular features of architectural interest. The proposed advertisement display and green wall will add colour, interest and vitality to this untidy flank wall and improve the appearance of the host building.

We believe the advertisement is acceptable set against this commercial backdrop and the other commercial premises on Clerkenwell Road. The display is set against a busy backdrop of offices and the immediate area surrounding the appeal site is dominated by the road and traffic flow. Whilst it is accepted that advertisements may not be appropriate on residential and smaller roads they are usually appropriately sited on well-lit arterial roads.

We believe that this proposal will integrate with the existing commercial activity surrounding the site. It is suggested that advertising may be appropriate in a vibrant commercial area such as this and that this digital advertising display will not be detrimental to the visual amenity of the local area.

Method of Illumination

Camden Council consider that the method of illumination of the advertisement would have a harmful effect on the visual amenity.

The method of illumination for a digital display is by light-emitting diodes (LED) which tend to be directional in their light emission. The clearest view of the display is directly in front of the panel. We believe that any possible light pollution, taking into account the well-lit surroundings of this new digital display, will be at an entirely acceptable level.

The maximum luminance will be 600cdm² during daylight hours and it is proposed that the maximum luminance between dusk and dawn be 300 cd/square metre. In addition, the display will be switched off entirely between midnight and 6am in order to save energy. The level of luminance of the proposed display will be accurately controlled by sensors that vary the luminance of the LEDs according to the ambient light conditions. It is reasonable to assume that the luminance of the proposed display will be below these maximum levels for the majority of the time.

We consider that the method of illumination of the proposed advertisement display will not be unduly harmful to the visual amenity as digital advertising is a common feature in London. The change of any images would be instantaneous and the changing nature of the display will appear as a smooth, instantaneous change. Furthermore, the level of illumination and the frequency of change of the advertisements can be controlled by condition.

It would be acceptable to the appellants, if a consent was considered, that it included a condition limiting the luminance to the level applied for, or, to a lower level if the inspector considered it appropriate. Equally a condition limiting the frequency of advertisement change to once every 30 seconds would be acceptable to the appellants if the inspector considered it appropriate.

We submit that Clerkenwell Road is well lit by street lighting and the fronts of the commercial premises are also illuminated and it is intended that this display will be viewed against this backdrop. We suggest this proposal with reduced night time luminance, represents the latest in variable lighting technology.

Hatton Garden Conservation Area and Heritage Impact

In their reasons for refusal Camden Council consider that the proposed advertisement display will have a harmful effect on the wider Hatton Garden Conservation Area.

We believe a Conservation Area should not preclude the display of an advertisement altogether. Not all conservation areas include areas of special advertisement control and advertisements are not prohibited within such locations. Indeed, the digital advertisement at 96-100 Clerkenwell Road (ref: 14/AP/4288) was granted planning consent and is within the Clerkenwell Green Conservation Area.

There is a mix of old and new buildings in the immediate vicinity. The juxtaposition of old and new is an accepted part of the architectural fabric and very widespread throughout London. Modern buildings and features such as digital advertising, as well as historic buildings are what makes London a great cosmopolitan capital city.

Many conservation areas include areas of predominantly commercial, shopping and business activity where advertising may be appropriate when care is taken so that the displays are compatible with their surroundings. The green wall will further soften the impact of this proposed advertisement display. In such overtly commercial settings, the public is used to seeing and expects to see a range of commercial images and these advertisements form part of the areas profile and character.

73-75 Clerkenwell Road is not a listed building and is not adjacent to, opposite or in the immediate vicinity of any listed buildings nor in view of any listed buildings. Consequently, we submit that the Heritage Impact of the proposal on the Conservation Area will be neutral and the proposed advertisement display will be seen and associated with the busy and vibrant nature of Clerkenwell Road.

Clerkenwell Road has experienced historical piecemeal change over the years with the demolition of historical buildings that are no longer fit for their intended use and in their place has been the construction of modern buildings. Offices, shops and hotels now dominate this immediate area. We believe that this advertisement display is development consistent with this change and that it will support retail activity for local and national advertisers and is an appropriate feature in central London. Advertising plays an active role in the regeneration of physical Retail Outlets and the High Street.

In all the circumstances, we submit that this proposed advertising display will not have a harmful effect on the visual amenity and the wider Hatton Garden Conservation Area.

Highway Safety

Camden Council in their grounds for refusal stated that the proposed advertisement due to its proximity to a signalled controlled junction would introduce a distraction to road traffic, causing harm to highway and public safety.

It appears from the case officer report that Transport for London were not consulted concerning the highway safety impact of this proposal. There is also no information in the case officer report as to whether the Camden Highways Team were consulted concerning this proposal.

Camden Council have not produced any evidence or statistics to support their view that the advertisement would cause harm to highway and public safety nor that this is a safety critical location.

We submit that, Clerkenwell Road has a wide layout, is a two-lane street with an additional two cycle lanes, designed to maximum standards and represents an uncomplicated road layout where the demands on the driver are lower. Cars and cycles are separated by lanes in both directions. Clerkenwell Road is a straight road at this point. In an eastbound direction from which the advertisement would be viewed, there are no turns to the left or right and vehicle manoeuvres are relatively simple.

It is considered that the demands on the driver are lower in relation to the execution of a straight on movement through the road junction and so there will be no safety conflict. Due to the relatively straight alignment of the Clerkenwell Road carriageway in relation to the proposal site, it is considered that approaching drivers will have good visibility and a sight line towards the advertising display position from around 100m to the west, and this would give sufficient time for the presence of the advertising display ahead to be assimilated without surprise.

Therefore, the siting of the digital display is not considered to be a conflict in relation to the safe operation of the approaches to the road junction.

Existing research and guidance on digital roadside advertising (Paragraph 2.5 Digital Roadside Advertising Guidance prepared by Transport for London which is annexed to these grounds of appeal) has shown that in certain circumstances, advertisements can contribute to driver distraction. Such circumstances are where drivers are faced with increased cognitive demand.

Research has identified that locations of increased cognitive demand include merges, diverges, complicated road geometries and sections of roads with high-speed limits. The highway conditions in Clerkenwell Road are considered to correspond with a less complicated low-speed road layout where the demands on the driver are lower, and therefore the siting of the digital advertising display is considered acceptable in relation to this location on the highway network.

Pedestrian Safety

Pedestrian footfall is also at a relatively low level in Clerkenwell Road. The pedestrians that do cross Clerkenwell Road are controlled and regulated by the pedestrian crossing. There are facilities in place to ensure that pedestrians can cross the pedestrian crossing near to the proposal site in a controlled and safe manner. The digital advertising display proposal does not create a risk of distracting pedestrians and does not hinder the ready interpretation of the traffic signals associated with this controlled crossing by pedestrians. It is concluded that the digital advertising display proposal would not raise any public safety issues for pedestrians.

Interaction of the Advertisement Display with Traffic Signals

The proposed advertising display will not be readily visible to westbound traffic along Clerkenwell Road. The advertisement will be visible offside only to eastbound traffic. We submit that the eastbound approach to the appeal site the proposed advertising display is on the offside and the primary traffic signal head of the road junction is on the nearside and seen separately. The traffic signal heads will not be viewed with the advertisement display as a background. There will be no interaction between the advertisement and the existing traffic signal head on the approach to the road junction.

It is considered that the advertising display position and the locations of the traffic signals will not interact with the advertising display in respect of approaching drivers at the 25m Stopping Sight Distance (the critical decision-making distance) for a 20mph approach speed, and that there will be no safety conflict.

Siting of Advertisement Display

Digital Roadside Advertising Guidance prepared by Transport for London which is annexed to these grounds of appeal states in paragraphs 4.4, 4.5 and 4.6 that a Digital advertisement is likely to best be located to reflect where official road signs would normally be located. This approach will locate the advertisement in driver's eye line and reduce the risk of drivers turning attention away from the road. Other locations may be acceptable if they are within the eyeline of drivers and do not create unacceptable risks of diverting attention. Digital advertisements are best orientated to face the oncoming driver as would be the case with official road signs.

We submit that this digital advertisement will be located to face the oncoming driver, in the same manner as a large directional road sign and will be within the eye line of drivers and consequently will not create an unacceptable risk of diverting the attention of drivers.

7. Conclusion

In conclusion, we believe the proposed advertisement display and living green wall will considerably improve the current appearance of the flank wall. The advertisement display will be contained within the green wall and the living green wall will positively add to the amenities of the area. The size and siting of the advertisement display is appropriate, occupying approximately 7% of the flank wall. We suggest that the method of illumination, with reduced night time luminance, is appropriate and can if necessary be controlled by conditions. We submit that the scale and nature of the predominantly commercial surroundings will be able to accommodate this advertisement without having a harmful effect the visual amenities of the area. This proposal will not be incongruous as a similarly sized digital advertisement display, on a flank wall and near to this site has in the past been approved in Clerkenwell Road as detailed above. There will be no interaction between the advertisement display and the existing traffic signal heads on the approach to the road junction. It is therefore considered by the appellants that there are no significant transport reasons why the development proposals should not be granted planning permission. The advertisement display complies with local and national policies and represent a substantial investment in a high-quality display and will support retail activity and contribute towards the regeneration of the High Street.