



## Appeal Decision

Site visit made on 4 June 2019

**by C J Ford BA (Hons) BTP MRTPI**

**a person appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> July 2019**

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**Appeal Ref: APP/X5210/Z/18/3215048**

**Outside 67 Theobalds Road, London WC1X 8TA**

- 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 2017/5180/A, dated 18 September 2017, was refused by notice dated 4 September 2018.
  - The advertisement proposed is 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. Whilst the Council state the kiosk is unauthorised, the matter of its planning status is not being considered as part of this advertisement appeal. It would require separate consideration.
3. In accordance with the Council’s assessment of the scheme, the appeal has been determined on the basis of the dimensions provided in the ‘Advertisement Application Document’ rather than the original application form. The proposed display panel would be 1810mm high and 1100mm wide, whilst the depth of the unit attached to the kiosk would be 57mm.
4. The parties have drawn attention to development plan policies and parts of the National Planning Policy Framework 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

5. 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*

6. The kiosk is prominently sited on the pavement on the south side of Theobalds Road. It is proposed to replace an existing north-east facing non-illuminated advertisement with a LED display of the same dimensions.
7. Less than 50m to the north-east of the kiosk is the boundary of the Bloomsbury Conservation Area (CA). Within the CA, there is a traditional brick built terrace with shop units on the ground floor. Located just outside of the CA, No 55 Theobalds Road is a more modern brick building with commercial units on the ground floor. No 55 serves as a transition building between the terrace and the neighbouring No 67 Theobalds Road, a modern clad office block which is the rear secondary frontage of No 26 Red Lion Square.
8. The nature of the advertisements along this southern stretch of Theobalds Road accord with the ground floor uses of the buildings. Many of the shop units in the terrace and No 55 have full width fascia signage and small projecting signs, emphasising their retail character. In contrast, No 67 has slim and mainly plain white fascias with the sporadic placement of small logos of companies that occupy space in the building. The restrained signage reflects its office use and secondary frontage appearance.
9. With the kiosk being sited in front of No 67, the existing non-illuminated advertisement, which benefits from deemed consent as opposed to the express consent now sought, is visibly located outside of the retail area where the display of commercial advertisements is prevalent. This detachment and its siting in front of an office building with limited signage renders the existing sizeable advertisement as an incongruous feature in the locality.
10. It is recognised the proposed LED panel would not introduce a new form of advertisement to the area in terms of the display of illuminated sequential static images. In particular, to the north-east and partly within the CA, there is a bus shelter with a double-sided advertisement panel at one end. The north-eastern side of the panel is a LED display. However, it faces the internal area of the shelter. As a consequence, it is observed through the confines of the shelter and is often obscured by awaiting bus passengers. The proposed LED panel would be outward facing and have a more strident appearance.
11. Given this context and owing to a combination of its size, location, positioning and illumination, the proposed advertisement would appear as an unduly dominant and visually incongruous feature in the locality. It would detract from the setting of the CA.
12. The appellant's willingness to accept a condition limiting the maximum night time luminance level to 300Cdm<sup>2</sup> is noted but the detrimental impacts identified above could not be overcome by conditions.
13. On the north side of the road, outside of No 98, it is appreciated there is another bus shelter with similar advertisements to the one described above. Further to the west of this, outside of No 124, there is also a BT InLink unit which has LED display panels on either side. However, the background and consent status of those advertisements have not been clarified. The appeal proposal has been duly considered on its own merits and having regard to its

specific location on the south side of Theobalds Road and its close visual association with the nearby CA.

14. It is therefore concluded the proposed advertisement would have an unacceptably harmful effect on the visual amenity of the area and the setting 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 the character and amenity of the area and the setting of heritage assets.

*ii. Public Safety*

15. 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.
16. 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 any criminal or anti-social behaviour in the locality.
17. It is therefore concluded 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**

18. 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