



Appeal Decisions

Site visit made on 1 July 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2019

Appeal A Ref: APP/V5570/W/18/3209537

**Farringdon Road, O/S Car Park, Opp. No. 155, (Bar and Kitchen),
Islington, London EC1M 3HE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by British Telecommunications against the decision of the Council of the London Borough of Islington.
 - The application Ref P2018/1148/FUL, dated 29 March 2018, was refused by notice dated 20 June 2018.
 - The development proposed is Installation of an InLink (associated removal of 2 BT payphones).
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Appeal B Ref: APP/V5570/W/18/3209313

Farringdon Road, O/S Car Park, Opp. No. 155, Islington, London EC1M 3HE

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by British Telecommunications against the decision of the Council of the London Borough of Islington.
 - The application Ref P2018/1266/ADV, dated 29 March 2018, was refused by notice dated 20 June 2018.
 - The advertisement proposed is Installation of an InLink (associated removal of 2 BT payphones).
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Decision

1. Appeal A is allowed and planning permission is granted for Installation of an InLink (associated removal of 2 BT payphones) at Farringdon Road, O/S Car Park, Opp. No. 155, Islington, London EC1M 3HE in accordance with the terms of the application, Ref P2018/1148/FUL, dated 29 March 2018, and the plans submitted with it, subject to the conditions set out in the attached schedule.
2. Appeal B is allowed, and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations¹ and the following additional conditions set out in the attached schedule.

Procedural Matter

3. As set out above there are two appeals on the same site. They both relate to the installation of an InLink structure: one concerns an application for planning permission for the structure and the other an application for consent for the

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

advertisements it would carry. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together in a single decision letter.

4. The plans listed on the decision notices did not tally with those on the submitted plans. The Council has confirmed that this was an error on its part. The drawing numbers used, below, are the correct ones.
5. Although similar, there is a difference between the name of the applicant and that of the appellant. I have used that from the application form.

Main Issues

6. The main issues in Appeal A are the effect of the development on:
 - (i) the character and appearance of the area, including the settings of the Clerkenwell Green Conservation Area (CGCA) and Roseberry Avenue Conservation Area (RACA); and
 - (ii) the safety and convenience of pedestrians and road users.
7. The main issue in Appeal B is the effect of the advertisement on visual amenity.

Reasons

Appeal A

Character and appearance

8. The appeal site is located on a wide pavement on Farringdon Road, in front of a large multi-storey car park. This building runs for a considerable distance between its junctions with Vineyard Walk and Bowling Green Lane. Save for its scale and mass, which is appropriate to this part of Farringdon Road, it adds very little to the area's streetscape and creates a long dead frontage.
9. The boundary for the CGCA runs along the centre of Farringdon Road. The building opposite the car park, within the CGCA is impressive, with commercial units at ground level and four floors of accommodation above. Unlike the car park, it adds greatly to the streetscape.
10. The boundary of the RACA lies a short distance to the northwest of the site at Vineyard Walk. This is close to the crest of a rise in Farringdon Road and, as such, only a small part of it is seen from the appeal site. Notwithstanding this, the terraces that are seen from the site add to the quality of the streetscape.
11. Given their proximity, it is clear that the appeal site lies within the setting of both the CGCA and RACA, which are designated heritage assets.
12. This form of development is supported in principle by London Plan Policy 4.11 and Policy DM2.3 of Islington's Local Plan: Development Management Policies, June 2013 (LP). Support in the latter is subject to, amongst other things, its being sited and designed to minimise visual impact and that it would not have a detrimental effect upon the character or appearance of the area. Amongst the guidance on telecommunications equipment in paragraphs 5.189-5.191 of the Islington Urban Design Guide is that particular care needs to be taken to

- ensure their size, height and positioning does not dominate the surrounding public realm.
13. The proposed InLink would stand some 2.9m high, have a maximum width of 89cms and a depth of 28cms. It would include an easily accessed tablet device that would provide a range of free services to the open public. On its side elevations, though not part of this appeal proposal, digital advertisements would be displayed.
 14. There are a number of pieces of street furniture along the footway in front of the car park. These include a Belisha beacon on a zebra crossing, lampposts and cycle stands, a cash dispensing facility and a bus stop as well as several trees. Notwithstanding these, the footway does not have a cluttered appearance and this would not change with the addition of the proposed InLink.
 15. It would be markedly different from the other items of street furniture and set in a position where it would be quite visible. However, given its relationship with the large car park, it would not be seen as a monolithic structure. The car park would continue to dominate this side of the road. The InLink would provide interest in the street scene in front of the car park, and some respite from its pervasiveness. It would draw the eye to a degree, but I do not agree that it would detract from the surrounding buildings and streetscape.
 16. Paragraph 200 of the Framework states that proposals that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, heritage assets should be treated favourably. For the reasons I have given, the car park and stretch of footway in front of it add very little to the setting of the CGCA.
 17. Views of the InLink from the CGCA would be in the context of the intervening heavy traffic flows along Farringdon Road and the backdrop of the car park. As such, the InLink would not have an adverse effect on the significance of the CGCA and would not cause harm to its setting.
 18. The InLink would be visible from the edge of the RACA. However, again, it would be seen in the context of the busy Farringdon Road. It would have a limited effect on its setting, but this would not be harmful.
 19. The two phone boxes that it is proposed to remove are situated next to one another some distance from the appeal site and are not visible from it. Their removal would have the benefit of less structures in their local streetscape. As I have no overriding evidence to the contrary, their removal is acceptable.
 20. On this main issue, I find that the proposed InLink structure would not have a harmful effect on the character and appearance of the area, including the settings of the CGCA and RACA. It would, therefore, accord with Policy DM2.1 of the Local Plan Development Management Policies 2013 (the DMP), which seeks development which respects and responds positively to existing buildings, the streetscape and the wider context. Its terms are reflected amongst those in Policy CS8 and CS9 of Islington's Core Strategy (Core Strategy), February 2011. It would accord with the Islington Urban Design Guide and TfL Streetscape Guidance.

21. The decision refers to LP Policies DM6, DM 8.2 and DM 8.4. The former relates to advertisements, and is therefore relevant to Appeal B. The latter two relates to highway safety and are relevant to the second main issue.

Pedestrians and road users

22. Farringdon Road, in the vicinity of the appeal site, has a bus lane adjacent to the footway on which the InLink would stand, with two lanes of traffic beyond. It is a busy road. Amongst its terms, LP Policy DM2.1 requires developments to be safe and, although not quoted in the decision, I note that London Plan Policy 6.11 seeks to secure and improve smooth traffic flows – including those of pedestrians and public transport. Both are, therefore, directly relevant to this issue.
23. The shelter serving the bus stop is set away from the site, estimated at 20-22m by the Council. The bus stop marked on the carriageway extends a little over half-way from the shelter towards the appeal site. Given these distances, I would not describe them as being next to one another, as suggested by Transport for London (TfL). Given the distance between them, the proposed InLink would be most unlikely to affect customers entering and exiting buses using the bus stop.
24. The InLink would stand some 0.5m back from the edge of the carriageway, in line with lampposts and trees on the footway. It would, however, be wider than those features. It would also carry illuminated advertisements, but I note that the Council has not objected to these for reasons of safety, see Appeal B.
25. Notwithstanding these features, from what I saw at my site visit, were there to be any interruption of the views between an approaching bus and the bus stop, and vice-versa, this would be fleeting. Due to their position on the road as they approach the bus stop, drivers of approaching buses would have a good view of customers waiting there for some distance before reaching it. Waiting customers would similarly have ample warning of an approaching bus.
26. Specific mention was made by TfL to the effects that the InLink may have at night and for people with mobility impairments. However, no substantive reasoning has been provided in support of these lines of argument.
27. For the above reasons, I do not find that there would be a significant adverse impact on the safety and convenience of pedestrians and road users in this location, to the detriment of highway safety. The proposal would therefore accord with the terms of LP Policies DM2.1, DM8.2 and DM8.4 that relate to this issue.
28. The decision notice went on to refer to CS Policies CS8 and CS9, which lack relevance to this issue being more germane to that of character and appearance, as is the case with guidance in the Islington Urban Design Guide, 2017. It also refers to LP DM2.6. This relates to advertisements and is relevant to Appeal B. I do not find Policy BC6D of the Finsbury Local Plan² to be wholly relevant to this proposal. It seems to be more related to large scale developments and redevelopments in the area. In this regard I note that the car park is allocated for development and/or refurbishment, though this small proposal need not affect this. In any event, I find that the benefits of providing

² Finsbury Local Plan – Area Action Plan for Bunhill and Clerkenwell, June 2013

free services for pedestrians passing through the area would accord with the underlying aim of this part of the policy.

Conditions

29. The Council has suggested a number of conditions, which I have assessed against the guidance on the use of conditions in paragraph 55 of the Framework. The appellant has not commented on these but has suggested the use of a condition regarding the removal of the off-site phone boxes.
30. In addition to that setting out the statutory time limit, a condition requiring compliance with the approved plans is necessary in the interest of clarity. I do not find that condition 3 proposed by the Council is necessary, as this is a matter that is controlled under other legislation. Lastly, whilst I have no objection to the removal of the two telephone kiosks, I have found that the erection of the proposed InLink would be acceptable on its own merits. Given the distance between the two kiosks to be removed and the proposed InLink, and the lack of visual relationship between them, I do not find that the proposed condition passes the test of necessity.

Conclusion

31. In the light of the above, and having taken all matters raised into account, I allow the appeal.

Appeal B

32. Each side of the proposed InLink would display digital advertisements. These advertisements would be static, and their levels of luminance would accord with the recommended levels within the Institute of Lighting Professional Technical Report 5.
33. Presently, the amount of advertising in the vicinity of the appeal site is limited. This includes a Belisha beacon serving the zebra crossing, road signage on some of the street furniture, and advertisements drawing users to its presence are found on the faces of the cash dispenser. The bus stop has an illuminated poster panel facing the carriageway. The car park has two projecting signs at what might be termed 'fascia level', with the letters 'N', 'C' and 'P' individually displayed on large projecting signs some way above street level. It appeared that the car park signage was illuminated.
34. On the opposite side of Farringdon Road, within the CGCA, advertisements were very limited. There was some highway signage on street furniture, with a small amount of non-illuminated signage on the building opposite the car park.
35. The proposed advertisements would add life to what is presently a long stretch of dead road frontage. It is a rather bland piece of streetscape, which the advertisements would invigorate. These benefits would be felt at night when it appeared to me that the footway in front of the car park would be likely to be an unattractive place for pedestrians and bus users. Furthermore, the advertisements would draw attention away from the otherwise austere frontage of the car park.
36. The advertisements would be seen from, and lie within the setting of, the CGCA. Paragraph 200 of the Framework states that proposals that preserve

those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset should be treated favourably. For the reasons I have given in terms of the street scene, above and in Appeal A, the car park and stretch of footway in front of it add little to the settings of the CGCA and RACA.

37. Given the width of Farringdon Road and the amount and nature of traffic on it, the proposed advertisements would not harm the setting of the CGCA.
38. Although the advertisement would be seen from the edge of the RACA, this would be in the context of the busy Farringdon Road. As such, I do not find that it would harm its setting.
39. As set out in the Regulations, factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural or cultural features, consideration should be given to whether it is in scale and keeping with these features. In this regard, the proposed advertisements would be appropriate to the site and would not have an adverse effect on the settings of the CGCA and RACA.
40. For the reasons set out above, I conclude that the advertisements would not have a harmful effect on visual amenity. In accordance with the Regulations, I have taken into account the provisions of the development plan so far as they are material. Amongst their terms, CS Policies CS8 and CS9 and LP Policies DM2.1, DM2.3 and DM 2.6 refer to the protection of amenity, so are relevant to this case. I have concluded that the advertisements would not harm amenity, and therefore the appeal proposal does not conflict with these policies.

Conditions

41. Both main parties have proposed conditions, and I have taken these into account in my assessment. Again, this has been undertaken with reference to paragraph 55 of the Framework.
42. Of those proposed by the Council, I find that number 1, the matter of the owners' consent to display advertisements, is irrelevant to planning. The safety issues that were identified by the Council at the application stage have been assessed in this appeal and, subject to conditions below, I find that there would be no harm to safety. Therefore, proposed condition 2 fails the test of necessity. The matters of amenity set out in proposed conditions 3, 4 and 5 can be controlled through other legislation, so are unnecessary here.
43. Both main parties agree on the use of a condition of this type but disagree on the intensity of illumination at night. The Council provides no technical reason for its proposal for 300 candelas per square metre, whereas the appellant states its proposal for 600 candelas per square metre accords with The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements'. I have not been given a copy of this document, but the Council has not countered that what has been said is incorrect. Therefore, on the basis of the evidence, I have attached a slightly amended version of the Council's proposed condition using the appellant's figure. To avoid repetition, I have removed the reference to the static nature of the advertisement.
44. The terms of the Council's proposed conditions 7, 8 and 9 are reflected in the appellant's proposed conditions 2, 3 and 4, albeit the Council's are more

detailed. I find that they are necessary on the grounds of amenity and highway safety and I have attached them to my decision.

45. I find that the matter of the removal of the two kiosks, in the Council's proposed condition 10 is irrelevant to this advertisement appeal. It is a matter that has been addressed in the Appeal A.

Decision

46. For the above reasons, and having taken all other matters into account, the appeal is allowed.

Roy Curnow

INSPECTOR

APPEAL A – SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: ISL-073-LP-V1; ISL-073-SP-V1; ISL-073—EL-V1; ISL-073-RM1&2LP-V1; D0002

APPEAL B – SCHEDULE OF CONDITIONS

1. The intensity of the illumination of the digital signs shall not exceed 2500 candelas per square metre during the day and 600 candelas per square metre from dusk until dawn. The levels of luminance on the digital signs should be controlled by light sensors to measure the ambient brightness and dimmers to control the lighting output to within these limits.
2. The minimum display time for each advertisement shall be 10 seconds, the use of message sequencing for the same product is prohibited and the advertisements shall not include features/equipment which would allow interactive messages/advertisements to be displayed.
3. No visual effects of any kind to be permitted to accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method. Any sequential change between advertisements will take place over a period no greater than one second.
4. Each advertisement shall be static. There shall be no special effects (including noise, smell, smoke, animation, exposed cold cathode tubing, flashing, scrolling, three dimensional, intermittent or video elements) of any kind during the time that any message is displayed.