



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: 4th September 2019

Appeal A Ref: APP/V5570/W/18/3209536

**O/S No 140-142 King's Cross Road, Opp No 161, Islington,
London WC1X 9DS**

- 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 plc against the decision of the Council of the London Borough of Islington.
 - The application Ref P2018/1147/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/Z/18/3209312

**O/S No 140-142 King's Cross Road, Opp No 161, Islington,
London WC1X 9DS**

- 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 plc against the decision of the Council of the London Borough of Islington.
 - The application Ref P2018/1264/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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Decisions

1. Appeal A is dismissed, and Appeal B is dismissed.

Procedural Matters

2. As set out above there are two appeals on the same site. They both involve the installation of an InLink structure: one relating to planning permission for the structure and the other with consent for the 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, except where otherwise indicated.
3. There was some disagreement between the main parties at the application stage over the descriptions of development. I have used those from the application forms in my banner heading, above.

Main Issues

4. The main issue with regards to Appeal A is the effect of the proposed development on the character and appearance of the area, including that of the New River Conservation Area (NRCA) and the setting of the King's Cross Conservation Area (KCCA), which are designated heritage assets.
5. The main issue with regards to Appeal B is the effect of the advertisements to be displayed on the sides of the InLink on the amenity of the area.

Reasons

Appeal A

6. The appeal site lies on the north side of King's Cross Road, within the NRCA. The NRCA is quite extensive and is described in Council supplementary planning guidance¹ ('SPG') as having "a rare quality and consistency of scale, materials, design and detailing which require careful and sensitive policies for its protection and enhancement". The SPG sets out that its predominant character is residential, although it refers to the shopping frontages on King's Cross Road "which provide local services and are an important contribution to the character of the area".
7. The site lies on the footway fronting a line of buildings that add greatly to the area. They have commercial premises at ground floor with multiple floors of commercial and/or residential uses above. These, together with the mainly similar buildings on the north side of the road in the abutting KCCA, form a coherent whole. Given the proximity of the appeal site to the KCCA, there can be little doubt that the site lies within its setting.
8. 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 application, digital advertisements would be displayed.
9. This form of development is supported in principle by London Plan Policy 4.11 and Policy DM2.7 of Islington's Local Plan: Development Management Policies, June 2013 (LP). Support in the latter is subject to, amongst other things, their being sited and designed to minimise their visual impact and that they 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.
10. Street furniture close to the appeal site is limited to columns supporting street lights and a CCTV camera, a small number of bike stands, a few tables outside a small café and a telephone kiosk. Taken individually or cumulatively, these features have little effect on the street scene. This, allied to the generous width of the pavement, play an important role in providing an open street scene that allows relatively unobstructed views to the buildings at the rear of the footway.

¹ Islington's Conservation Area Design Guidelines, January 2002

11. The stretch of King's Cross Road that is in the KCCA shares this character and appearance. A bus shelter within the KCCA that lies some distance away, the Council suggests 110m distant, has little effect on the open nature of the street scene. It is the type of street scene that Policy CS8 of Islington's Core Strategy, February 2011 (CS) identifies as a key asset to the borough that should be maintained.
12. The statutory duty² with respect to development proposals in a conservation area is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 200 of the National Planning Policy Framework (the Framework) sets out 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.
13. Locally, these requirements are reflected amongst the terms of Policies 7.4, 7.5 and 7.8 of The London Plan, March 2016 (London Plan), CS Policy CS9 and Policy DM2.3 of Islington's Local Plan: Development Management Policies, June 2013 (Local Plan). Section 8.2 of the Islington Streetbook Supplementary Planning Document, October 2012, (Streetbook) advises on the placement of street furniture. Amongst its objectives is the requirement to respect, conserve and enhance the historic environment.
14. Given its position close to the carriageway in this open street scene, the proposed InLink would be a prominent feature. Due to its height and the width of its side elevations, it would be an incongruous and harmful feature in the streetscape. It would reduce the openness of the street and detract from views to the buildings along the back of the footway. Whilst it would not result in a cluttered streetscape, neither this nor its slim form and small footprint would mitigate these harmful effects.
15. There is a much busier street scene on the opposite side of the road, which is outside the CA. That area is quite distinct from the scene on the north side of King's Cross Road, and the two are separated by its busy carriageway. As such, it would not mitigate the harmful effect I have identified.
16. On this issue, I conclude that the proposal would neither preserve nor enhance the character or appearance of the NRCA and would have a harmful effect on the setting of the KCCA. It would, therefore, fail the statutory test, and be contrary to CS Policy CS9, London Plan Policies 7.4, 7.5 and 7.8 and Local Plan Policy DM2.3.
17. In addition, the proposal would not represent high quality design that would respect the street scene, as required by Local Plan Policy DM2.1 and DM2.7, London Plan Policy 6.1, CS Policy CS8 and section 8.2 of the Streetbook.
18. As it relates to advertisements, Local Plan Policy DM2.6 is not relevant to Appeal A.
19. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. The proposal would have a negative effect on the significance of a designated heritage asset but would only affect its immediate surroundings and as such would result in "less than substantial" harm in the words of the Framework.

² Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

20. As set out in the Framework, where a proposal would result in less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal. The free services that the InLink would provide to the public would undoubtedly be beneficial.
21. It is put forward that a telephone box on Penton Rise and another on Pentonville Road would be removed as part of the proposal. Both are a considerable distance from the appeal site and neither is seen from it. Both boxes have little effect on their respective street scenes. Their removal, which I have been given no reason to object to, would provide only limited benefit. Given my findings on the limited benefits of removing these kiosks, I need not opine on the efficacy of the condition that is proposed to secure their removal.
22. These are limited benefits that would not outweigh the harm that I have identified to the character and appearance of the NRCA and the setting of the KCCA.

Conclusion

23. For the above reasons, and having taken all other matters into account, Appeal A is dismissed.

Reasons

Appeal B

24. 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. The latter has, reportedly, been used elsewhere within the borough.
25. Presently, the amount of advertising in the local street scene is limited. The fascia signage on shopfronts is restrained, especially on the side of King's Cross Road in which the appeal site lies. It appeared that some were externally illuminated and that the few projecting signs were internally illuminated.
26. The bus stop in the KCCA, referred to in my 'Character and Appearance' section, above, has two illuminated poster advertisements facing the road and the telephone kiosk to the southeast of the site has an advertisement affixed to it. All of these are '6-sheet' in size, and are considerably larger than those proposed here.
27. The proposed advertisements would be at a considerable height above ground level and located in a prominent position. They would be at odds with the restrained advertising in the area, none which are as bright or eye-catching. Those advertisements would not, therefore, provide mitigation for the ill-effects that they would have.
28. 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 in keeping with these features. In this regard, the proposed advertisements would be incongruous and would have an adverse effect on the NRCA and setting of the KCCA.

29. For the reasons set out above, I conclude that the advertisements would 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 in a manner relevant to this case. I have concluded that the advertisements would harm amenity, and therefore the appeal proposal conflicts with these policies.

Conclusions

30. For the above reasoning, and having taken all other matters into account, Appeal B is dismissed.

Roy Curnow

INSPECTOR