
Appeal Decisions

Site visit made on 14 August 2019

by **I A Dyer BSc (Eng) MIHT**

an Inspector appointed by the Secretary of State

Decision date: 10 September 2019

Appeal A Ref: APP/U5360/W/18/3203689

Mare Street, Outside Iceland, Junction of Graham Road, London E8 1HY

- 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 Hackney.
 - The application Ref 2018/0440, dated 5 February 2018, was refused by notice dated 29 March 2018.
 - The development proposed is the installation of x1 InLink and the removal of 2No. BT payphones.
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Appeal B Ref: APP/U5360/H/18/3203630

Mare Street, Outside Iceland, Junction of Graham Road, London E8 1HY

- 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 Hackney.
 - The application Ref 2018/0474, dated 5 February 2018, was refused by notice dated 29 March 2018.
 - The development proposed is two digital LED display screens, one on each side of the InLink.
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Decisions

Appeal A Ref: APP/U5360/W/18/3203689

1. The appeal is allowed and planning permission is granted for the installation of x1 InLink and the removal of 2No. BT payphones. in accordance with the terms of the application, 2018/0440, dated 5 February 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

Appeal B Ref: APP/U5360/H/18/3203630

2. The appeal is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for ten years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached schedule.

Procedural Matters

3. The applications were submitted together on a single application form covering both planning permission and consent to display advertisements. As set out above there are two appeals on this site relating to different aspects of the same proposal. I have considered each proposal on its individual merits.

However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. The Council has referred to development plan policies in respect of Appeal B. As advertisement proposals can only be considered on the basis of amenity and public safety considerations, I have taken into account relevant development plan policies so far as they relate to these issues, but in themselves they have not been determinative from the point of view of my overall conclusion on the advertisement appeal.
5. Following the Council's decision on the applications that led to these appeals, a new version of the National Planning Policy Framework (the Framework) was published in July 2018 and is a material consideration in decision-taking from the date of its issue. The parties had the opportunity to make comments on the bearing of this on the appeals. Whilst there have been further revisions since to the Framework, contained in the new version published in February 2019, no changes have been made to the content directly relevant to the subject matter of these appeals. Consequently, I consider that no prejudice would occur to any parties as a result of me taking the Framework into account in my assessment of the appeals' merits.

Main Issues

6. The main issue in relation to Appeal A is the effect of the siting of the proposed development on the safe and efficient operation of the public highway.
7. In relation to Appeal B, the control of advertisements is exercisable only with respect to amenity and public safety. The main issue is the effect of the proposed advertisements on amenity.

Reasons

8. The site is located in Mare Street which is a wide street with commercial uses on both sides. The range of shops and services provided and the high-density housing in the area combine to result in Mare Street having the character of a busy urban street. The buildings exhibit a mix of architectural styles, including modern infill, generally with more modern shop facades below. The commercial units generally exhibit more modern shop facades at street level. There are wide footways between the shop frontages and the vehicular carriageway in the vicinity of the site, with street furniture of a contemporary design including a large advertising and seating feature, street lighting columns, traffic signs, service cabinets and litter bins. There are also several street trees. Advertising on the commercial units incorporates internally illuminated projecting signs. There is a delivery bay occupying the carriageway adjacent to the site. The site lies close to a railway bridge which dominates the area close to the appeal site and views along Mare Street from the south. Overall the area has a vibrant urban character dominated by the mass of the railway bridge. The aforementioned attributes add positively and distinctively to the character and appearance of the CAs.
9. The proposed development would result in an InLink unit being installed close to the footway edge which would be perpendicular to the street and have advertising panels on both sides. At the time of my site visit there were two vehicles waiting in the delivery bay, however the balance of the bay was free. Although the proposed unit would add an additional kerbside structure within

the length of the delivery bay the degree of obstruction that this would cause would be small and the operation of the bay would not be affected to any significant degree.

10. Given the scale of existing street furniture and street trees, and the presence of the railway bridge that dominates the area, the InLink unit would not be a prominent feature in the street scene and would not result in significant additional obstruction to the use of the loading bay. Nor, given the scale of the street furniture to the south and the more modern shop facades at ground level, would it be an uncharacteristic and incongruous feature in this part of the CAs.
11. The InLink unit includes advertising panels on its main sides. To the south, there is a combined advertising and seating feature. Whilst the panels would be unrelated to the services provided by the adjacent commercial units they would be viewed in the context of the advertising panels associated with this feature and so would not appear prominent in views along the street. The luminance levels could be controlled by planning condition.
12. Both the installation of the InLink and the digital advertising panels would not, as a result of their design and appearance and the internal illumination associated with the panels, detract from the appearance of the site or the character and appearance of this part of the CAs.
13. For the reasons outlined above, I conclude that in respect of Appeal A the development would not have a harmful effect on the safe and efficient operation of the public highway. The development is therefore in compliance with Policies DM44 and DM45 of the Development Management Local Plan 2015 (the Local Plan) and Transport for London's Streetscape Guidance which collectively seek to resist development which would have a detrimental impact on the safety or amenity of other highway users, promote walking through the provision of a high quality street environment and to provide for the competing requirements of those using the streets.
14. For the reasons outlined above, I also conclude that in respect of Appeal B the proposed digital advertising panels would not be harmful to the CAs and hence to amenity. I have taken into account Policies DM1, DM28 and DM29 of the Local Plan which seek to preserve and enhance the Borough's townscape features, including heritage assets and to ensure that advertisements are sensitive to the character of an area through size and siting, especially in areas of historic significance and so are material in this case.
15. In reaching the two conclusions above, I am mindful that the two phone boxes that it is proposed to remove are situated some distance from the appeal site. Their removal would have the benefit of fewer structures in their local streetscape, and I have no reason to object to their removal. However, as I have found that the proposals in both appeals are acceptable on their own merits, neither is reliant on the removal of those kiosks.

Conditions – Appeal A

16. In addition to that setting out the statutory time limit, a condition requiring compliance with the approved plans is necessary for the avoidance of doubt and in the interest of certainty. Whilst I have no objection to the removal of the telephone kiosks as proposed, I have found that the erection of the proposed

InLink would be acceptable on its own merits. Therefore, the planning condition suggested regarding the removal of the two phone boxes does not pass the test of necessity.

Conditions – Appeal B

17. The appellant proposes the use of a condition to control the intensity of illumination at night. Transport for London's 'Guidance for Digital Roadside Advertising and Proposed Best Practice – 2013' (the TFL Advertisement Guidance) proposes 300 candelas per square metre, whereas the appellant proposes 600 candelas per square metre based upon guidance in the Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements'. I have not been provided with a copy of the latter document. However, in the interests of preserving the character and appearance of the CA and hence the amenity of the area, it is necessary to impose an illumination condition. In doing so, I have applied the TFL Advertisement Guidance figure which would ensure that the advertisements did not appear harsh or stark in the CA. This has also been imposed in the context that the appellant's Planning, Design and Access Statement states that the advertisement would be operated within the TFL Advertisement Guidance.
18. In the interests of public safety, it is necessary to impose conditions relating to the movement, display and intervals for any advertisements.
19. I am not persuaded that condition 5 suggested by the appellant, relating to the resemblance of advertisements to highway signage, is necessary. In this regard, I note that this was not proposed by the Council nor was it requested by the Council's highways officers.

Conclusions – Appeals A & B

20. For the reasons given above, and taking into account all other matters raised, I conclude that the appeals should succeed.

I Dyer

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: Location Plan - HCK-134-LP-V1; Existing and Proposed Site Plan - HCK-134-SP-V1; InLink Dimensions – D0002 V3.

APPEAL B – SCHEDULE OF CONDITIONS

The following conditions are attached to this consent, in addition to the five standard conditions set out in the Regulations.

1. The intensity of the illumination of the digital sign shall not exceed 300 candelas per square metre between dusk and dawn in line with the maximum permitted recommended luminance as set out by Transport for London's 'Guidance for Digital Roadside Advertising and Proposed Best Practice – 2013'.
2. The digital sign shall not display any moving, or apparently moving, images (including animation, flashing, scrolling, three dimensional, intermittent or video elements).
3. The minimum display time for each advertisement shall be 10 seconds.
4. The interval between advertisements shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.