



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/18/3203655

Kingsland Road (Jct. Retford Street, OS Sainsburys), London E2 8DP

- 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 2018/0444, 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/18/3203520

Kingsland Road (Jct. Retford Street, OS Sainsburys), London E2 8DP

- 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 2018/0468, dated 5 February 2018, was refused by notice dated 29 March 2018.
 - The development proposed is two LED Digital Display Screens, one each side of InLink.
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Decisions

Appeal A Ref: APP/U5360/W/18/3203655

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, Ref 2018/0444, dated 5 February 2018, and the plans submitted with it, subject to the following 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-107-LP-V1; Existing and Proposed Site Plan - HCK-107-SP-V1; InLink Dimensions - D0002 V3.

Appeal B Ref: APP/U5360/H/18/3203520

2. The appeal is dismissed.

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 issues in relation to Appeal A are (i) whether the development would preserve or enhance the character or appearance of the Kingsland Conservation Area (the CA), and (ii) the effect of the siting of the proposed development on pedestrian movement and public safety.
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 outside a convenience store on the footway of Kingsland Road 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 Kingsland Road 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. There are wide footways between the shop frontages and the vehicular carriageway in the vicinity of the site, with limited street furniture of a contemporary design including street lighting columns and litter bins. Advertising on the commercial units includes some internally illuminated signage, but is generally low key and incorporates static images. Overall the area has a pleasant sense of spaciousness despite its busy urban character. The aforementioned attributes add positively and distinctively to the character and appearance of the CA.
9. The proposed development would result in an InLink unit being installed close to the footway edge, at right angles to the flow of traffic, which would have advertising panels on both sides. As a consequence of its height, width and separation from other street furniture the InLink unit would create a prominent feature in the street scene.

10. There is dispute between the main parties regarding the level of footfall on this stretch of footway. However, no pedestrian count data has been provided by either party in support of their case. During my site visit, albeit that this provides only a snapshot in time, I observed that the footway was busy, but not excessively so. Given the width of the footway and the separation of the proposed unit from other obstructions in the footway the InLink unit would not cause a significant obstruction to pedestrian flow and would be unlikely to encourage pedestrians to leave the footway and enter the carriageway to a significant degree. The unit would not significantly affect the sense of spaciousness, nor, given its setting against more modern shop facades and the mix of architectural styles, would its simple, modern design detract from the character and appearance of the site and the surrounding area which is part of the CA
11. However, the impact of the InLink unit would be increased by the large advertising panels. The position of the panels close to the kerbline would be a prominent standalone illuminated feature. The panels would be unrelated to the services provided by the adjacent commercial units and would appear prominent in views along the street both during the day and in hours of darkness. The installation of the digital advertising panels would, as a result of the internal illumination associated with the panels, their position adjacent to the kerb and changing images, create a discordant feature within the street scene and hence would not preserve or enhance the character or appearance of the CA. To this extent, significant harm would be caused to the amenity of the area.
12. The two phone boxes that it is proposed to remove are situated some distance from the appeal site and are not visible from it. Their removal would have the benefit of fewer structures in their local streetscape, and I have no reason to object to their removal. However, there is limited information before me about the kiosks which would be removed, including the quality of the public realm at those sites, whether the sites fall within a conservation area or whether the streets within which they are located attract a high level of footfall. Therefore, I attach limited weight to any potential benefits that could arise from this.
13. For the reasons outlined above, I conclude that in respect of Appeal A the development would preserve the character and appearance of the CA and would not have an unacceptable impact on pedestrian movement and public safety. The development would therefore accord with Policies DM44, DM45 and DM46 of the Development Management Local Plan 2015 (the Local Plan); Policy 6.10 of the London Plan 2016; 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 and promote walking through the provision of a high quality street environment.
14. For the reasons outlined above, I conclude that in respect of Appeal B the proposed digital advertising panels would be harmful to the CA and hence to amenity and therefore would not accord with 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. The above identified harm would be less than substantial taking into account paragraph 196 of the Framework. The Framework directs that where a development proposal would lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal. I deal with this matter below.
16. In respect of Appeal B, the screens would provide a number of services to members of the public, which I understand to be at no cost to end users, including local information provided by the Council and travel information. I also note that they would be powered by carbon free energy. Whilst these are positive matters to weigh in the overall planning balance, they are not of sufficient magnitude to outweigh the harm caused by the advertisements to the amenity of the area.

Conditions -Appeal A

17. 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.

Conclusions – Appeals A & B

18. For the reasons given above, and taking into account all other matters raised, I conclude that Appeal A should succeed, and Appeal B be dismissed.

I Dyer