
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/18/3203690

Morning Lane, Outside Foxtons, Junction of Mare Street, London EH8 1HA

- 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 2018/0442, dated 5 February 2018, was refused by notice dated 29 March 2018.
 - The development proposed is installation x1 InLink and the removal of 2No. BT payphones.
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Appeal B Ref: APP/U5360/H/18/3203516

Morning Lane, Outside Foxtons, Junction of Mare Street, London EH8 1HA

- 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 2018/0472, 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/18/3203690

1. The appeal is allowed and planning permission is granted for installation x1 InLink and the removal of 2No. BT payphones in accordance with the terms of the application, Ref 2018/0442, 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-135-V1; Existing and Proposed Site Plan - HCK-135-SP-V1; InLink Dimensions - D0002 V3.

Appeal B Ref: APP/U5360/H/18/3203516

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 issue in relation to Appeal A is the effect of the development upon the character and appearance of the appeal site and the surrounding area.
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 the visual amenity of the area.

Reasons

8. The site is located in Morning Lane, which is a wide street with commercial uses on both sides, close to its junction with Mare Street. The range of shops, including a large convenience store, and services provided and the high-density housing in the area combine to result in Morning Lane having the character of a busy urban street. The buildings in the vicinity exhibit a mix of architectural styles, including modern developments and blocks of flats. The shop units generally have more modern facades at street level. There are wide footways between the shop frontages and the carriageway in the vicinity of the site, with limited street furniture including bollards and street lighting columns. 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 vibrant urban character.
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. However, 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 be out of keeping in the street scene and so would not be harmful to the character or appearance of the area.

10. However, the impact of the InLink unit would be augmented by the large advertising panels. 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 and alien feature within the street scene. To this extent, significant harm would be caused to the amenity of the area.
11. For the reasons outlined above, I conclude that in respect of Appeal A the development would not have a harmful effect upon the character and appearance of the appeal site and the surrounding area. The proposal is therefore in accordance with Transport for London's Streetscape Guidance which, amongst other things, recognises the fundamental role streets and places play in improving the public realm and providing an enhanced quality of life.
12. I do not find Policies DM44 and DM45 of the Development Management Local Plan (2015) (the Local Plan) and Policy 6.10 of the London Plan (2016) particularly relevant in regard to this main issue as these, amongst other things, set out a transport user hierarchy in favour of pedestrians and resist development which would have a detrimental impact on the safety or amenity of other highway users.
13. For the reasons outlined above, I conclude that in respect of Appeal B the proposed digital advertising panels would be harmful to amenity and therefore would not accord with Policies DM1 and DM29 of the Local Plan which seek to create a positive sense of place and to ensure that advertisements are sensitive to the character of an area through size and siting.
14. 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 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.

Other Matters

15. 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

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.

Conclusions – Appeals A & B

17. 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

Inspector