
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: 12 September 2019

Appeal A Ref: APP/U5360/W/18/3203692

Mare Street (Opp 146, Jct. Bayford Street), London E8 3SG

- 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 2018/0451, dated 5 February 2018, was refused by notice dated 29 March 2018.
 - The development proposed is the installation of 1No. InLink & removal of 2No. BT payphones.
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Appeal B Ref: APP/U5360/H/18/3203509

Mare Street (Opp 146, Jct. Bayford Street), London E8 3SG

- 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 2018/0462, 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/18/3203692

1. The appeal is allowed and planning permission is granted for the installation of 1No. InLink & removal of 2No. BT payphones in accordance with the terms of the application, 2018/0451, dated 5 February 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

Appeal B Ref: APP/U5360/H/18/3203509

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 issues in relation to Appeal A are (i) whether the development would preserve or enhance the character or appearance of the Mare Street 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 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 more modern buildings. 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 street lighting columns and litter bins. Advertising on the commercial units incorporates internally illuminated projecting signs. On the opposite side of the street there are a number of items of street furniture, including the bus stops, with associated internally illuminated advertisement panels, litter bins, street signage and lighting columns. Overall the area has a pleasant sense of spaciousness despite its vibrant 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 which would be perpendicular to the street and have advertising panels on both sides. Whilst there is dispute between the parties regarding the residual width of clear footway following installation of the unit, at worst the proposal would leave a clear width of footway marginally below

the width stipulated for a footway in active flow areas within Transport for London's Pedestrian Comfort Guidelines 2010. Given the existing street furniture to either side and the existing obstruction to pedestrian flow that this provides, the InLink unit would not be a prominent feature in the street scene and would not result in significant additional obstruction to the passage of pedestrians. Nor would it, given the more modern shop facades at ground level and more modern architecture in the vicinity of the site, be an uncharacteristic and incongruous feature in this part of the CA.

10. The InLink unit includes advertising panels on its main sides. 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 the bus stops opposite and other illuminated advertising and so they would not appear out of place in views along the street. The luminance levels could be controlled by planning condition.
11. 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 CA.
12. 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.
13. 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 CA 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.
14. 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

15. 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

16. 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.
17. In the interests of public safety, it is necessary to impose conditions relating to the movement, display and intervals for any advertisements.
18. 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

19. 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-141-LP-V1; Existing and Proposed Site Plan - HCK-141-SP-V1; InLink Dimensions – D0002 V3.
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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.