
Appeal Decisions

Site visit made on 10 September 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2019

Appeal A Ref: APP/V5570/W/18/3209547

Outside 545-561 Trade Discount, Holloway Road, Islington N19 4BT

- 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 P2018/1130/FUL, dated 29 March 2018, was refused by notice dated 20 June 2018.
- The development proposed is described as the 'Installation of x1 InLink.'

Appeal B Ref: APP/V5570/H/18/3209320

Outside 545-561 Trade Discount, Holloway Road, Islington N19 4BT

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) 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 P2018/1289/ADV, dated 29 March 2018, was refused by notice dated 20 June 2018.
- The development proposed is described as the 'Installation of x1 InLink.'

Decision

1. Appeal A is allowed and planning permission is granted for the installation of x1 InLink outside 545-561 Trade Discount, Holloway Road, Islington N19 4BT in accordance with the terms of the application, Ref P2018/1130/FUL, dated 29 March 2018, subject to the conditions set out in Schedule A of this decision.
2. Appeal B is allowed and express consent is granted for the display of two digital LED display screens, one on each side of the InLink. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in Schedule 2 of the Regulations and the additional conditions set out in Schedule B of this decision.

Procedural Matters

3. I have taken the site address and description of development from the original application form used for both proposals but have amended the site address to reflect the conventional order. Appeal A seeks planning permission for the installation of an InLink telecommunication apparatus with digital display panel, which would be mounted on the pavement. Appeal B seeks advertisement consent for the display of 2 illuminated LED digital display screens within the apparatus. I have therefore referred to the nature of the advertisements in my decision relating to appeal B above.

Main Issues

4. The main issues for Appeal A are the effect of the proposal on the character and appearance of the area and the use of on street vehicle parking spaces.
5. The main issues for Appeal B are the effect of the proposed advertisements on the amenity of the area and public safety.

Reasons

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Character and appearance

6. The section of Holloway Road nearest to the appeal site comprises a busy urban thoroughfare flanked by a mixture of Victorian and more modern buildings of predominantly 2-3 storeys in mixed use. The footway along the southern section of Holloway Road between Wedmore Street and Rupert Road is comparatively wide, with limited street furniture and an absence of street trees. Most of the block at ground floor level accommodates a single retail unit known as the Trade Discount Centre, which notwithstanding the remnants of original plots being discernible particularly in the upper floors, somewhat dominates the street scene due to its unusually expansive frontage. This conveys a greater sense of scale and spaciousness that contrasts with the rhythm of other built form nearby. As a result, the area has a somewhat mixed urban character.
7. The proposal would comprise a tall, freestanding, structure with 2 x illuminated LED screens of a contemporary design located towards the outer edge of the footway. The parties agree that the existing street furniture comprising 3 lampposts, litter bin and a bus-stop is restrained, giving the footway an uncluttered appearance. This would allow for a considerable space¹ between the proposed InLink structure and the nearest lamppost, with which it would align. On this basis, notwithstanding that the proposal represents an additional element within the street scene, the distances maintained would be sufficient to retain the sense of spaciousness. As it is a single object, it would not amount to a proliferation of clutter as the Council assert.
8. Given the backdrop of the wide shop frontage to 545-561 Holloway Road, the dimensions of the proposed apparatus would not appear out of proportion when seen in the foreground. The contemporary design of the structure would conform with the modern appearance of other nearby street furniture and shop fascia signage. Therefore, the proposal would be reasonably assimilated into the street scene.
9. I accept that the illumination of the LED panels within the InLink structure would increase its visual impact. However, it would be located in an area where commercial uses are established. Furthermore, although they would be in a higher position, the size of the LED panels would be smaller than that of the illuminated bus shelter advertisement panels to the south. On this basis, the visual impact of the proposal would be reasonably comparable to the impact of the bus shelter, which I did not observe to be harmful. In addition, the luminance levels would accord with the recommended maximum levels within the Institute of Lighting Professionals, Professional Lighting Guide 5.

¹ 9.82m on Existing and proposed site plan ISL-105-SP-V1

10. Although the Council has not identified which buildings they consider amount to non-designated heritage assets that would be affected by the proposal, I observed the presence of Victorian buildings nearby, particularly Nos. 545-561 and the buildings opposite. To a limited extent, these have architectural significance as a general reflection of the Victorian phase of growth at this part of Holloway Road. The height of the proposed apparatus would mean that from the street, it would primarily be seen against the backdrop of the considerably altered ground floor commercial sections of these buildings and therefore, would be unlikely to impact on the architectural quality of the upper floors.
11. Paragraph 197 of the National Planning Policy Framework (the Framework) indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account and that a balanced judgement should be made having regard to the scale of any harm to the significance of the heritage asset. For the reasons outlined, I find that the limited visual impact of the proposal would not harm the general significance of those buildings.
12. The structure would be located some distance north west of the Mercers Road/Tavistock Terrace Conservation Area (CA). The alignment of the road and intervening built form would prevent inter-visibility between the appeal site and the CA. Consequently, it would not affect the surroundings in which that designated heritage asset is experienced and accordingly, would not affect its significance.
13. The appellants point to the removal of two existing telephone kiosks from the pavement outside 608 Holloway Road near the junction with Alexander Road and suggest that the use of a Grampian condition securing their removal should attract weight as a visual improvement in mitigation for the impact of the proposal. However, the telephone kiosks are located some considerable distance to the south east of the appeal site and therefore, when this is combined with the road alignment, they would be unlikely to be seen in the same views or context. Whilst I accept that some visual improvements may be wrought by the removal of the existing payphones, these would be too remote from the appeal site to attract weight in assessing the individual merits of the proposal.
14. Moreover, given that, having assessed the appeal proposal on its own merits based on the evidence presented, I have not found visual harm would arise, it follows that mitigation would not be necessary to make it acceptable in planning terms. Therefore, such a Grampian condition would fail the tests of necessity and relevance set out in Paragraph 55 of the Framework. As such, the appeal decisions² to which I am referred whereby similar Grampian conditions were considered, carry little weight, as the Inspector in those cases found the introduction of the telecommunication apparatus proposed to be harmful.
15. Accordingly, I do not find that the proposal would result in harm to the character and appearance of the area, and therefore it would not conflict with policies CS8 and CS9 of Islington's Core Strategy, February 2011 (CS) which, amongst other matters, seeks to enhance the public realm and protect the built and historic environment. In addition, it would accord with the general design criteria in policy DM2.1 of Islington's Local Plan: Development Management

² Reference APP/V5570/W/18/3209577 & APP/V5570/H/18/3209473

Policies, June 2013 (ILP), as well as policies DM2.6 and DM2.7 of the same plan which seek to achieve high quality design for advertisements and telecommunications development.

16. For similar reasons the proposal would not conflict with policies 6.10, 7.4 and 7.5 of The London Plan, March 2016 (TLP) which, amongst other matters, seek to safeguard the local character of the area and the public realm to provide a high quality pedestrian environment.
17. In coming to these findings, I have also had regard to Islington's Urban Design Guide Supplementary Planning Document, January 2017 which seeks to protect and improve the character and appearance of the public realm and Islington's Streetbook Supplementary Planning Document, October 2012 which seeks to rationalise and reduce street furniture and protect an area's local character

Vehicle parking facilities

18. The InLink structure would be sited adjacent to on-street parking on Holloway Road. The parties disagree as to whether the proposal would reduce the ability of motorists from effectively using the car parking by obstructing the opening of car doors, thereby forcing the vehicle occupiers to exit into the road.
19. The structure would be located approximately 0.5m from the kerbside with the narrowest³ part of the apparatus facing towards Holloway Road, with the user interface directed towards the inner part of the footway. In this regard it would not be dissimilar to the impact of the existing lampposts adjacent to the parking area. The evidence does not suggest that this arrangement has led to difficulty in using the adjacent parking space, and therefore, there is little basis to suppose that the addition of a single further structure would do so.
20. In addition, specific bays are not designated within the parking area, allowing some flexibility for motorists when parking to avoid directly aligning opening doors with the lampposts. This would equally apply in relation to the appeal proposal. In any event, given the inset distance of the structure from the kerb, there is little specific evidence to show that the appeal proposal would be likely to prevent the opening of vehicle doors.
21. Furthermore, depending on the orientation of the parked vehicle, motorists and passengers using the parking area might already exit the vehicle towards Holloway Road. Little evidence has been provided to support the assertion that this would give rise to safety concerns. Paragraph 109 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.
22. Therefore, the evidence indicates that at most, the proposal may cause a minor inconvenience which would be surmountable with the minor repositioning of a vehicle. This would not amount to a significant harm preventing the use of the car parking area, nor an unacceptable risk to highway safety. Accordingly, I find that the proposal would not cause harm to the safe and convenient use of nearby on-street vehicle parking. Therefore, it would not conflict with the criteria set out in policies CS8 and CS9 of the CS which seek, amongst other matters, to safeguard the safety and convenience of the public realm.

³ 0.28m

23. Furthermore, it would accord with the relevant parts of policies DM2.1, DM2.6, DM8.2 and DM8.4 of the ILP which, amongst other matters, seek to ensure that the design of development allows for convenient movement through spaces and should not result in a hazard for pedestrians and road users.
24. Neither do I consider that the proposal would conflict with policy BC6(D) of the Finsbury Local Plan, Area Action Plan for Bunhill and Clerkenwell, June 2013, which amongst several matters, seeks to promote pedestrian activity within North Clerkenwell and Mount Pleasant. The decision notice also refers to conflict with TLP but does not cite any specific policies. However, overall, in relation to this main issue I do not find conflict with TLP in such regards.

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Amenity

25. Paragraph 132 of the Framework indicates that advertisements should be subject to control only in the interests of amenity and public safety. The proposed advertisements comprise 2 x illuminated LED screens measuring approximately 1.22m x 0.79m set within the InLink structure.
26. For similar reasons to those already outlined in relation to the consideration of the character and appearance for Appeal A, the siting, size and illumination of the proposed advertisements would not result in harm to the character and appearance of the area.
27. The proposed luminance levels would accord with the industry recommendations which could be secured by a planning condition. Additional limitations relating to static images and the timing of sequential images would further restrict the visual impact of the advertisements such that they would be appropriate within the context previously described.
28. In accordance with Regulation 3 of the Regulations, I have taken into account policies CS8 and CS9 of the CS, policies DM2.1, DM2.6 and DM2.7 of the ILP and policies 6.10, 7.4, and 7.5 of TLP insofar as they are relevant to the consideration of amenity. These policies when taken together seek to ensure, amongst other matters, that development, does not adversely affect the visual appearance of the local area. Given that I have concluded the proposal would not cause harm to the character and appearance of the area, the proposal accords with these policies.
29. Accordingly, I find that the advertisement would not be harmful to the amenity of the area and would therefore, accord with the relevant provisions of paragraph 132 of the Framework.

Public Safety

30. For similar reasons to those already outlined in relation to the consideration of the impact on on-street vehicle parking for Appeal A, the evidence provided does not demonstrate that the siting of the advertisements would result in harm to public safety.
31. As such, although policies DM2.1 and DM2.6 of the ILP are material to the consideration of public safety, I find no conflict with the relevant criteria set out within those policies that refer to development allowing for the convenient

movement through spaces, and the avoidance of hazards for pedestrians and road users. It follows that this does not present a reason to dismiss the appeal.

Conditions

32. Both parties have provided suggested conditions⁴ which I have considered against the tests set out in paragraph 55 of the Framework and advice in the Planning Practice Guidance. In relation to appeal A, I accept that, in addition to the statutory requirement to commence the development within a specified time, it is necessary in the interests of clarity to implement the development in accordance with the approved plans.
33. It is not shown that a condition to prevent the obstruction of the footway and highway during installation and maintenance of the apparatus could not be more appropriately secured through specific legislation controlling the highway. Therefore, on the evidence provided it is not shown that it meets the test of necessity. In addition, for the reasons already outlined, a Grampian condition to secure the removal of the telephone kiosks at the junction of Alexander Road would fail the test that it would be relevant to the development to be permitted, and neither would it have been otherwise necessary to refuse the whole permission.
34. In relation to appeal B, there is no need to duplicate the standard conditions set out in regulation 2(1) and Schedule 2 of the Regulations as my decision makes it sufficiently clear that those listed in Schedule B are in addition to those.
35. In the interests of visual amenity and highway safety, the intensity of the illumination of the sign is limited by condition. The levels of illumination suggested by the appellant would not exceed the maximum set out by the Institute of Lighting Professionals and I have not been provided with evidence to justify reducing it to the lower figure suggested by the Council.
36. For similar reasons conditions are applied to control the static nature, display time, visual effects and the transition between advertisements. Furthermore, a condition is added to ensure that no advertisements resemble traffic signs in order to safeguard highway safety.

Conclusion

37. For the reasons given above I conclude that both appeals should be allowed.

Helen O'Connor

Inspector

⁴ Appellants' suggestions page 16, Planning, Design and Access Statement

Schedule A: Conditions in respect of Appeal A

- 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 ISL-105-Holloway Road (OS No.545-561 Trade Discount) ISL-105-LP-V1; ISL-105-SP-V1 Existing & Proposed Site Plan; ISL-105-EP-V1 Existing & Proposed Views; ISL-105-EL-V1 Existing and Proposed Elevations.

Schedule B: Conditions in respect of Appeal B

- 1) The advertisement display permitted by this consent shall be statically illuminated and the intensity shall be no greater than 2500 candelas per square metre during the day and 600 candelas per square metre from dusk until dawn in line with the maximum permitted recommended luminance as set out by the Institute of Lighting Professionals in its Professional Lighting Guide 05 - Brightness of Illuminated Advertisements. The levels of luminance on the digital signs shall be controlled by light sensors to measure the ambient brightness and dimmers to control the lighting output to within these limits.
- 2) Each advertisement shall be static and shall not incorporate any special effects (including noise, smell, smoke, animation, exposed cold cathode tubing, flashing, scrolling, three dimensional, intermittent or video elements) of any kind during the time that any message is displayed.
- 3) The minimum display time for each advertisement shall be 10 seconds, the use of message sequencing for the same product is prohibited and the advertisements shall not include features/equipment which would allow interactive messages/advertisements to be displayed.
- 4) No visual effects of any kind shall accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method. Any sequential change between advertisements will take place over a period no greater than one second, and the display will include a mechanism to freeze the image in the event of a malfunction.
- 5) No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.