
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: 17 September 2019

Appeal A Ref: APP/V5570/W/18/3209543

Outside No. 222 Upper Street, Junction of Laycock Street, Islington N1 1RU

- 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 P2018/1118/FUL, dated 29 March 2018, was refused by notice dated 20 June 2018.
 - The development proposed is described as the 'Installation of x1 InLink and the removal of x2 BT payphones from the wider area'.
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Appeal B Ref: APP/V5570/H/18/3209318

Outside No. 222 Upper Street, Junction of Laycock Street, Islington N1 1RU

- 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 P2018/1293/ADV, dated 29 March 2018, was refused by notice dated 20 June 2018.
 - The development proposed is described as the 'Installation of x1 InLink and the removal of x2 BT payphones from the wider area'.
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Decision

1. Appeal A - The appeal is dismissed.
2. Appeal B - The appeal is dismissed.

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 telecommunications 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.

4. Although the description refers to the removal of x2 BT payphones it is sufficiently clear from the appellants' statement and submitted plans¹ that a total of 3 BT payphones are proposed to be removed and I have made my assessment on this basis.

Main Issues

5. The main issues for Appeal A are the effect of the proposal on the character and appearance of the area, with particular regards to the significance of Upper Street (North) Conservation Area and the Grade I listed Union Chapel as designated heritage assets, and the use of, and access to, nearby cycle and vehicle parking facilities.
6. 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

7. The proposed development would be located on the western edge of the Upper Street (North) Conservation Area (CA). The CA has the historic main thoroughfare of Upper Street at its core, which has a predominantly commercial character. Its significance derives in part from the wealth and mix of historic buildings that reflect the evolution of the northern part of Upper Street over time. Islington's Conservation Area Design Guidelines, Revised Version January 2002 specifically refers to the historic stepped pavements as important to the character and appearance of the CA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
8. Furthermore, Union Chapel, a Grade I, listed building located on the opposite side of Upper Road to the appeal site, is an important landmark. Its significance principally derives from its architectural quality as an outstanding example of a 19th century non-conformist building designed by James Cubitt. I am statutorily² required to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
9. The section of Upper Street nearest to the appeal site comprises a comparatively wide stepped pavement which is adjacent to a broad stretch of reasonably straight road, allowing for longer views along Upper Street in both directions. Notwithstanding the line of mature street trees, the dramatic tower of Union Chapel is a focal point in such views, as it rises above the tree line with lower portions of the structure visible in glimpses even when the trees are in full leaf. These factors contribute positively to the character and appearance of the CA.
10. However, the accumulation of traffic signs, refuse bin, lampposts, equipment cabinets, bollards and cycle hoop stands within the vicinity of the appeal site

¹ 1 x payphone outside 218 Upper Street on drawing ISL-093-RM1-LP-V1 & 2x payphones outside 235/7 Upper Street on drawing ISL-093-RM2-LP-V1

² Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990

result in a somewhat cluttered appearance. In addition, although some of the street furniture such as the cycle stands are aligned with the positioning of the street trees and have a muted black paint finish, in contrast the traffic signage and cabinets have a more varied conspicuous appearance and appear awkwardly spaced in the street. As a result, this has a discordant effect that detracts from the surroundings within which the Union Chapel is experienced, and the character and appearance of the CA.

11. The proposal would comprise a tall, freestanding, structure with 2 x illuminated LED screens of a contemporary design. The height and width of the apparatus would give it a greater solidity than the nearby lampposts and signage posts that would emphasise its presence in the street. Its location between the cycle stands and a cabinet, and in close proximity to the parking bay signage post to the east, would further reduce the sense of space and adversely contribute towards the cluttered disordered appearance overall. The broad alignment with the cycle hoop stands would not be sufficient to overcome this harm.
12. Furthermore, the height³ of the structure combined with its positioning towards the outer edge of the footway would make it prominent in the street scene. In addition, a considerable proportion of the upper part of the structure would be illuminated with sequential, albeit static, images. The prominence of the appeal proposal would be further exacerbated by the elevated nature of the footway relative to the road. As a result, it would be unduly prominent within the street and readily apparent in longer views along Upper Road.
13. Taking these factors together, the proposal would be harmful to the significance of the CA as a designated heritage asset and therefore, would fail to preserve or enhance its character and appearance. In addition, its pronounced presence would be a visual distraction to the focal point of the Union Chapel. However, in light of the relatively modest scale of the proposal, the harm to both designated heritage assets would be less than substantial.
14. Paragraph 196 of the National Planning Policy Framework (the Framework) states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would contribute towards the provision of modern communications infrastructure for the public, which is generally supported by paragraphs 92 and 112 of the Framework and policy 4.11 of The London Plan, March 2016 (TLP). Nevertheless, in light of the statutory duties and national policy, great weight⁴ is given to the harm to the designated heritage assets, particularly so given the importance of the Grade I Union Chapel, and therefore, the public benefits would not outweigh the harm I have identified.
15. The presence of other modern elements in the general vicinity, including the bus shelter to the north, would not negate the harmful impact of the proposal on the character and appearance of the area, and therefore would not overcome the harm.
16. The appellants point to the location of the proposed structure adjacent to No. 222 Upper Road, a modern, five storey, office building, which is itself outside of the CA. Notwithstanding its overall size, due to the materials, articulation of the

³ 2.9m

⁴ Paragraph 193, National Planning Policy Framework

building and softening effect of the nearby street trees, the building plays an unassuming role in the street which is deferential to the buildings of greater architectural merit located opposite. Therefore, the presence of No.222 and partial screening provided by the street trees would not surmount the harm from the appeal proposal that would be caused to the CA when taken as a whole, nor to the surroundings within which the Union Chapel is experienced.

17. The appellants assert that the removal of three existing telephone kiosks, comprising one payphone outside 218 Upper Street and two payphones outside 235-7 Upper Street, would mitigate the impact of the appeal proposal and that this could be secured by a condition. The telephone kiosks are owned by the appellants and are adequately identified on the submitted plans⁵ within the planning application, and as such, would be sufficiently precise and enforceable to meet the tests relating to the use of conditions set out in Paragraph 55 of the Framework.
18. Furthermore, I am provided with an appeal decision⁶ and an example of a Council decision⁷ where a 'Grampian' condition has been used to secure the removal of existing kiosks prior to the provision of an approved InLink structure, which carry considerable weight. In addition, the evidence does not show that there is no realistic prospect of the telephone kiosks being removed as the Council suggests but rather the contrary. I am therefore satisfied that, a condition could secure the visual mitigation provided by the removal of the requisite telephone kiosks, and that this could be required prior to the appeal proposal being installed.
19. The three telephone boxes are sufficiently proximate to the appeal site, such that they would otherwise be seen in views with the InLink structure and that therefore, their removal would to an extent mitigate the harm caused by the appeal proposal by reducing the level of street clutter nearby. In the case of the telephone boxes outside 235-7 Upper Street, this would be at a point closer to the Union Chapel. Nevertheless, the telephone kiosks that would be removed are not as tall as the appeal structure and do not contain integral illuminated sequential digital displays. As such, they do not have the same pronounced effect as the appeal proposal would have, and therefore, their removal would not amount to a level of mitigation that would overcome the degree of harm identified.
20. I have had regard to Part E of Transport for London's Streetscape Guidance, Third Edition 2017, Revision 1 which states that internet pylons similar to the proposal, would be generally appropriate in popular tourist destinations and in busy office and retail areas⁸ in London. However, this comment is of a general nature and does not consider the detailed circumstances and context of the proposal which I have considered on its own merits based on the evidence before me.
21. Accordingly, I find that the proposal would result in unacceptable harm to the character and appearance of the area, and furthermore would result in harm to the significance of the CA and setting of Union Chapel as designated heritage assets. Therefore, the proposal would conflict with policies CS8 and CS9 of

⁵ Drawing ISL-093-RM1-LP-V1 & Drawing ISL-093-RM2-LP-V1

⁶ Reference APP/V5570/W/18/3209567 & APP/V5570/H/18/3209393 dated 14 February 2019

⁷ Reference P2017/0573/ADV

⁸ Page 242

Islington's Core Strategy, February 2011 (CS) which, amongst other matters, seeks to enhance the public realm and protect the historic environment. In addition, it conflicts with policies DM2.1, DM2.3, DM2.6 and DM2.7 of Islington's Local Plan: Development Management Policies, June 2013 (ILP) which when taken in combination, seek to achieve high quality design that maintains and enhances the character of the area.

22. For similar reasons the proposal would be contrary to policies 6.10, 7.4, 7.5 and 7.8 of TLP which, amongst other matters, seek development that positively contributes to the local character of the area, protects the historic environment and enhances the public realm.
23. 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

Cycle and vehicle parking facilities

24. The InLink structure would be sited approximately 3.42m from the nearest cycle stand and slightly to the west of the existing parking bay signage⁹. The parties disagree as to whether this location would affect the ability of cyclists to conveniently access and use the cycle stand, and in addition, whether it would obstruct the parking bay signage.
25. From my observations, sufficient separation distance would be maintained such that neither the cycle stand nor the parking bay signage would be significantly obstructed by the proposal. In relation to the cycle stands this distance would be greater than that allowed between the existing cycle hoops. On this basis, notwithstanding the height of the proposal, it is likely to have a negligible impact on the continued convenient use of the cycle parking facilities, and little evidence has been provided to substantiate the Council's assertion otherwise.
26. The parking bay signage is located closer to Upper Road than the proposed InLink structure which would maintain the sight line between motorists on Upper Road and the sign. Moreover, the sign contains quite detailed information regarding the conditions of use of the parking bays such that motorists using the parking bays would be likely to look at the signage once stationary. The evidence does not show that the proposal would prevent motorists from doing so.
27. The narrowest¹⁰ part of the apparatus would face Upper road, with the user interface directed towards the inner part of the footway. On this basis, the presence of the InLink apparatus would be unlikely to inhibit the safe access of motorists to and from their vehicles when using the parking bays adjacent, as sufficient room would remain to navigate around it with relative ease.
28. Accordingly, I find that the proposal would not cause harm to the safe and convenient access of the nearby cycle and vehicle parking facilities. Therefore, it would accord with the relevant parts of policies DM2.1 and DM2.6 of the ILP which, amongst other matters, seek to ensure that the design of development

⁹ Drawing ISL-093-SP-V1

¹⁰ 0.28m

allows for convenient movement through spaces and should not result in a hazard for pedestrians and road users.

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Amenity

29. 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.
30. 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 proposed advertisements would be unduly prominent in the street scene and would adversely add to visual clutter in the street.
31. I accept that the proposed luminance levels would accord with the industry recommendations and might be similar to digital advertising seen elsewhere in the borough. Nevertheless, the introduction of additional illuminated advertisements, with sequential images at this prominent location, would draw the eye, markedly contrasting with the nature of other advertisements in the vicinity. As a result, the proposal would have a discordant and harmful impact on the visual appearance of the area. Neither the presence of larger advertisements on existing bus shelters in the vicinity, nor the partial screening of the advertisements from street trees would overcome this harm.
32. Therefore, the proposal would fail to preserve or enhance the character and appearance of the CA. The statutory duty referred to above in relation to conservation areas applies in advertisement appeals in so far as it relates to the consideration of amenity. In addition, the advertisements would be harmful to the setting, and therefore the significance of the Union Chapel as a designated heritage asset.
33. In accordance with Regulation 3 of the Regulations I have taken into account policies CS8 and CS9 of the CS, policies DM2.1, DM2.3, DM2.6 and DM2.7 of the ILP and policies 6.10, 7.4, 7.5 and 7.8 of TLP. These policies when taken together seek to ensure, amongst other matters, that development, does not adversely affect the visual appearance of the local area and in particular, the quality of the historic environment. As such, they are material to the consideration of amenity. Given that I have concluded the proposal would be harmful to the character and appearance of the area and the significance of the CA and Union Chapel, the proposal conflicts with these policies.
34. Accordingly, I find that the advertisement would be harmful to the amenity of the area and would be contrary to the provisions of paragraph 132 of the Framework.

Public Safety

35. For similar reasons to those already outlined in relation to the consideration of the impact on cycle and vehicle parking facilities for Appeal A, the evidence provided does not demonstrate that the siting of the advertisements would result in harm to public safety.

36. 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.

Conclusion

37. Therefore, although I do not find harm in relation to the impact on cycle and vehicle parking facilities arising from the proposed InLink apparatus, I have found harm to the character and appearance of the area including the significance of designated heritage assets. Similarly, whilst acceptable in terms of public safety, the proposed advertisements would result in unacceptable harm to the visual amenity of the area. Therefore, for the reasons given above, I conclude that both appeals should be dismissed.

Helen O'Connor

Inspector