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## Appeal Decisions

Site visit made on 1 July 2019

**by Roy Curnow MA BSC (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 April 2020**

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### **Appeal A Ref: APP/V5570/W/18/3209578**

**Old Street, O/S No. 207-211 (The Blower), opposite junction Mallow Street, Islington, London EC1V 9NR**

- 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 against the decision of the Council of the London Borough of Islington.
  - The application Ref P2018/1153/FUL, dated 29 March 2018, was refused by notice dated 20 June 2018.
  - The development proposed is Installation of an InLink (associated removal of 2 BT payphones).
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### **Appeal B Ref: APP/V5570/Z/18/3209474**

**Old Street, O/S No. 207-211 (The Blower), opposite junction Mallow Street, Islington, London EC1V 9NR**

- 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 against the decision of the Council of the London Borough of Islington.
  - The application Ref P2018/1282/ADV, dated 29 March 2018, was refused by notice dated 20 June 2018.
  - The advertisement proposed is Installation of an InLink (associated removal of 2 BT payphones).
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**This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 20 February 2020.**

### **Decision**

1. Appeal A is dismissed.
2. Appeal B is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions set out in the attached schedule.

### **Procedural Matter**

3. As set out above there are two appeals on the same site. They both relate to the installation of an InLink structure: one concerns an application for planning permission for the structure and the other an application for consent for the advertisements it would carry. Although I have considered each proposal on its

individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

## **Main Issues**

4. The main issues in Appeal A is the effect of the proposed development on the character and appearance of the public realm, including the setting of the Bunhill Fields and Finsbury Square Conservation Area (CA)
5. The main issue in Appeal B is the effect of the proposed advertisements on amenity.

## **Reasons**

### Appeal A

6. The site lies very close to the junction of City Road and Old Street, known as the Old Street Gyratory. It is a very busy location, both in terms of vehicle and pedestrian movements. There are a number of high buildings around the junction. These, together with a very large, suspended digital advertisement dominate the townscape.
7. The proposed InLink would stand some 2.9m high, have a maximum width of 89cms and a depth of 28cms. It would include an easily accessed tablet device that would provide a range of free services to the open public. On its side elevations, though not part of this application, digital advertisements would be displayed.
8. At the time of my visit, a large construction compound with temporary portable office buildings, had been formed on the footway very close to the appeal site. However, I was nonetheless able to assess the site adequately.
9. The junction is listed amongst the Mayor's 100 spaces for public realm improvements. The Old Street Gateway – Open Call for Design Ideas document, December 2017, (Open Call), describes the area, its problems and how it could be improved. Although it is at an early stage, and does not present the detailed finalised improvement works, the Open Call does set out some of the improvements that would be delivered.
10. Amongst these aims are the extension of the 'Promenade of Light'. This is described as an 'allee of trees' on the north side of Old Street, very close to the appeal site. These trees add greatly to the street scene, providing a softening effect to this otherwise densely built-up environment. This is an integral part of the planned improvements to the pedestrian environment and is aimed at 'making the peninsula greener'. This extension would be eastwards from the existing trees.
11. Transport for London Spatial Planning (TfL) objected to the proposal as it would conflict with the design realm for the Gyratory area, although it has not enlarged on this. The Council's Highways department identified the site as lying within the 'Promenade of Light' and a specifically landscaped scheme, and states that the site should remain clutter free. The Council's Design and Conservation team did not object to the proposal but set out that it may conflict with the forthcoming improvement works. The evidence shows the level of commitment, on behalf of both the Council and Mayor, to improving the public realm at the Gyratory. I give these overall aims substantial weight.

12. Whilst both parties have submitted drawings showing proposals for the public domain at the junction, neither of these show the approved final scheme for the proposed works. Both show the closure of the SW-NE link between Old Street and City Road and its use by pedestrians and cyclists. Given the street scene here, this would represent the area into which the Promenade of Light would extend.
13. The submissions show that the proposed InLink would be to the east of the existing trees, and close to them, and therefore would affect any extension to the Promenade of Light. Although the scheme has yet to be finalised and notwithstanding this would remain a very busy street scene, the proposed InLink would, by reasons of its height and siting, be unlikely to be absorbed into the general hustle and bustle of the improved streetscape. Indeed, this would be contrary to its *raison d'être*, which is to provide a readily seen and appreciated public facility with associated advertising. It would be clearly noticeable and would add clutter to the scene and be at odds with the important public realm improvements being undertaken in the area.
14. The Council's reasons for refusal do not make any reference to harm to the setting of the CA, which lies to the south, across Old Street. From the evidence before me and that of my site visit, I have no reason to find differently.
15. The evidence shows that there would be sufficient distance between the proposed InLink and the proposed signalised road crossing to avoid the use of the latter being impeded. Similarly, there would appear to be sufficient space around the proposed InLink to avoid harm to pedestrian and cyclist movement.
16. Of the two telephone kiosks that it proposed to remove, one is located close to the appeal site and is seen from it. The Council suggests that the other is some 170m away; it is not at all prominent from the appeal site. Their removal would have the benefit of less structures in the local streetscape and, as I have no overriding evidence to the contrary, their removal is acceptable. However, having found against the proposal for the reasons set out, above, I need not reach a determination on the question of whether a condition or planning obligation is necessary to ensure their removal.

## **Conclusion**

17. The proposed InLink would add clutter to an already very busy and cluttered street scene and would be at odds with the proposed improvements to the public realm. It would, therefore, be contrary to those aims of Policies 6.10 and 7.4 of the London Plan, 2016, that seek to ensure high quality pedestrian environments and public spaces.
18. As I do not find that there would be harm to pedestrian and cycle movements, I conclude that the proposal would accord with Policy DM8.2 of Islington's Local Plan: Development Management Policies (DMP).

## **Decision**

19. For the above reasons, and having taken all other matters into account, Appeal A is dismissed.

## **Appeal B**

### **Reasons**

20. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 sets out that a decision-maker shall exercise its powers under these Regulations in the interests of amenity and public safety<sup>1</sup>.
21. The Council's reason for refusal on the application for consent to display the advertisements on the side of the InLink largely rehearses the reasoning given for the refusal of the InLink structure, addressed in Appeal A. It does not mention amenity or public safety.
22. On this matter, the Officer's report concludes that "whilst undesirable, it is not considered that the proposed advert would warrant a reason for the refusal of the application in this instance", going on to say that the structure and advert would "not materially harm the character and appearance of street scene or the wider area".
23. The very large digital advertisement on the island dominates the vicinity of the appeal site, this forms the principal feature on the proposed advertisement's setting. There is a further large digital advertisement on the far side of the Gyratory, which forms part of the site's wider setting. In this context, I find the comments in the Officer's report, referred to above, to be correct.
24. I have found, in Appeal A, that the position of the proposed InLink would not have an adverse effect on the walking and cycle movements. Taking this into account and given the nature of other advertisements in the area, I have no reason to find that the adverts that it would carry would cause harm to public safety.
25. The setting of the CA has been described in Appeal A. Again, the Council does not refer to specific harm to the setting of the CA in its submissions and, again, I find no reason to differ with it.
26. For the above reasons, and having taken all other matters into account, I conclude that the proposed advertisements would not have an adverse effect on amenity or public safety. In accordance with the Regulations, I have taken into account the provisions of the development plan so far as they are material. Amongst their terms, Islington's Core Strategy February 2011 Policies CS8 and CS9 and DMP Policies DM2.1, DM2.3 and DM 2.6 refer to the protection of amenity, so are relevant to this case. I have concluded that the advertisements would not harm amenity, and therefore the appeal proposal does not conflict with these policies.

### **Conditions**

27. Both main parties have proposed conditions, and I have taken these into account in my assessment. Again, this has been undertaken with reference to paragraph 55 of the Framework.

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<sup>1</sup> Regulation 3(1)

28. Of those proposed by the Council, I find that number 1, relating to the owners' consent to display advertisements, is irrelevant to planning. The safety issues that were identified by the Council at the application stage has been assessed in this appeal and, subject to conditions below, I have found that there would be no harm to safety. Therefore, condition 2 fails the test of necessity. The matters of amenity set out in proposed conditions 3, 4 and 5 can be controlled through other legislation, so are unnecessary here. I find similarly with the Council's proposed condition 11.
29. Both main parties agree on the use of a condition relating to luminance but disagree on the intensity of illumination at night. The Council provides no technical reason for its proposal for 300 candelas per square metre, whereas the appellant states its proposal for 600 candelas per square metre accords with The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements'. I have not been given a copy of this document, but the Council has not countered that what has been said is incorrect. Therefore, on the basis of the evidence, I have attached a slightly amended version of the Council's proposed condition using the appellant's figure. To avoid repetition, I have removed the reference to the static nature of the advertisement.
30. The terms of the Council's proposed conditions 7, 8 and 9 are reflected in the appellant's proposed conditions 2, 3 and 4, albeit the former are more detailed. I find that they are necessary on the grounds of amenity and highway safety and I have attached them to my decision. Condition 10 is irrelevant to this advertisement appeal.

### **Decision**

31. For the above reasons, and having taken all other matters into account, the appeal is allowed.

*Roy Curnow*

INSPECTOR

## **APPEAL B – SCHEDULE OF CONDITIONS**

1. The intensity of the illumination of the digital signs shall not exceed 2500 candelas per square metre during the day and 600 candelas per square metre from dusk until dawn. The levels of luminance on the digital signs should be controlled by light sensors to measure the ambient brightness and dimmers to control the lighting output to within these limits.
2. 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.
3. No visual effects of any kind to be permitted to 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.
4. Each advertisement shall be static. There shall be no 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.