



Appeal Decisions

Site Visit made on 19 April 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2021

Appeal A Ref: APP/A5270/W/20/3264452

Outside The Oaks Shopping Centre, High Street, Acton W3 6RE

- 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 JCDecaux against the decision of the Council of the London Borough of Ealing.
 - The application Ref 203395FUL, dated 26 August 2020, was refused by notice dated 21 October 2020.
 - The development proposed is described as, "This application seeks consent and permission to replace an existing telephone box with a state of the art Communication Hub, as per Specification in Part 2 document".
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Appeal B Ref: APP/A5270/H/20/3264224

Outside The Oaks Shopping Centre, High Street, Acton W3 6RE

- 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 JCDecaux against the decision of the Council of the London Borough of Ealing.
 - The application Ref 203396ADV, dated 26 August 2020, was refused by notice dated 21 October 2020.
 - The advertisement proposed is described as, "This application seeks consent and permission to replace an existing telephone box with a state of the art Communication Hub, as per Specification in Part 2 document".
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. For both appeals, the description of each proposal shown above has been taken from the relevant application form. These differ from that shown on the appeal forms and decision notices. The decision notice for Appeal A identifies the proposed development as the 'Replacement of an existing telephone box with a state of the art Communication Hub'. The decision notice for Appeal B identifies the proposed advertisement as the 'Installation of a Single Sided LCD screen. (Advertisement Consent)'. I have used these descriptions in my consideration of the appeals since they best describe the proposals in precise and concise terms. They do not fundamentally alter the proposals which are the subjects of these appeals.

4. During the course of the appeals The London Plan¹ was published, which replaced the previous version. The parties were provided with an opportunity to comment on its relevance to these appeals, and I have taken the comments received into account in my consideration of the appeals.
5. Although for Appeal A the Council's decision notice refers to Policy 7 of the Ealing Development Management Development Plan Document (adopted 2013) (DPD) it is clear from both the Council's Officer's Report and the copies of the policies provided for Appeal A that the Council intended to refer to Policy 7B. Therefore, I have considered Policy 7B in my determination of this appeal.
6. The proposal for Appeal B would be an integral part of the proposal for Appeal A. As such, to avoid repetition I have provided one reasoning section, detailing my findings for both appeals. Notwithstanding this, each proposal and appeal has been considered individually, and on its own merits.

Main Issues

7. The main issues with respect to Appeal A are the effect of the proposal on the character and appearance of the area, including the setting of the Acton Town Centre Conservation Area, and the effect of the proposal on public safety.
8. The main issues with respect to Appeal B are the effect of the proposed advertisement on amenity, including the setting of the Acton Town Centre Conservation Area, and the effect of the proposed advertisement on public safety.

Reasons (Appeal A and Appeal B)

Character and appearance / amenity

9. The appeal site is located outside The Oaks Shopping Centre, on the High Street in Acton. This part of the High Street is lined with a variety of commercial, food and drink, and retail units. Some of the shop fronts are colourful, with signage present above the street-level frontages. However, whilst it is noted that '6-sheet' advertisements are common in some town centres and the appellant has asserted that the public is used to seeing a range of modern street furniture in commercial contexts, I observed that in the surrounding area there was little illuminated signage present on the footway itself.
10. The proposal would be situated in-between two lamp posts, a litter bin, and a post box. Although the proposal would not block any important views, due to its proposed location near to the carriageway, it would be noticeable from some distance on both sides of the street. It would incorporate a simple modern design and appropriate materials, but in my view it would not constitute an outstanding or innovative design in terms of paragraph 131 of the Framework². Nevertheless, it would be a structure of considerable size, and given the mostly small-scale and relatively unobtrusive nature of the other items of street furniture present it would appear unduly large in its context.
11. Moreover, I did not observe any other similarly-sized LCD displays in the immediate vicinity, and this, combined with the fact that the large-sized display of static images would change at regular intervals, would mean that the

¹ The London Plan (published 2021)

² National Planning Policy Framework 2019

proposal would appear as a very dominant and incongruous feature in the street scene, especially at night. As such, the proposal would integrate poorly in its context, and accordingly it would serve to harm the character and appearance of the area. I note that the luminance level of the LCD would be adjusted via an inbuilt light sensor, that the High Street is not dimly-lit, and a condition could be imposed to set a maximum level for luminance, but in my view, due to the size of the screen and its prominent proposed location, this would not adequately mitigate the harm which I have identified.

12. The appellant has referred to a number of previous grants of planning permission³. However, no plans have been provided, and very few details of the context surrounding the sites has been given. Accordingly, on the basis of the very limited details before me, it is not possible to make a meaningful comparison with the proposal before me. Therefore, the proposal has been assessed on its own merits.
13. The appellant has referred to a suggested condition to provide the means to ensure a cooperative future working relationship with the Council and the flexibility to adapt to changing needs in the Borough, but no text of this proposed condition has been provided. As such, it has not been demonstrated that such a condition would adequately mitigate the adverse effects of the proposal.
14. The appeal site is located outside of the Acton Town Centre Conservation Area (conservation area), but it is within the setting of the conservation area, i.e. the surroundings in which the heritage asset is experienced. The proposal would be situated very close to the edge of the conservation area. I observed that the significance of the conservation area as a heritage asset derives in part from the presence of traditional architecture at first floor level on the south side of the street, which includes high quality brickwork and architecturally-significant detailing surrounding many of the upper-floor windows, which adds to the historic charm of the local area.
15. The large scale of the Communication Hub, in combination with the substantially-sized LCD screen and its prominent proposed location, would undermine the contribution that the setting makes to the presence of traditional architecture within the conservation area. Accordingly, the proposal would not preserve the setting of the conservation area as a designated heritage asset.
16. Therefore, in relation to Appeal A, the proposal would have an unacceptable and harmful effect on the character and appearance of the area, including the setting of the conservation area. In relation to this main issue for Appeal A, it would conflict with Policies 7.4 and 7B of the DPD which collectively provide, amongst other things, that development in Ealing's existing built areas should complement their scale, and should ensure a positive visual impact, and it would also conflict with Policies 1.1 (g), 1.2 (f), 1.2 (g), 2.1 (c) and 2.10 of the Ealing Development Strategy 2026 (adopted 2012) (Development Strategy)

³ Local Planning Authority references: 203378ADV & 203377FUL (Pavement Outside 24 The Broadway, Greenford UB6 9PT), 203380ADV & 203379FUL (G3 O/S Costa The Broadway, Greenford UB6 9PR), 164072ADV (Bus Shelter Advertisement, Ifo No.131 (Coral) 131 High Street, Acton W3 6LY), 164078ADV (Bus Shelter Advertisement Ifo No.70 (Pizza Town), 70 High Street, Acton W3 6LE), 161083ADV (Advertising Right Outside Town Hall, New Broadway, Ealing), 161084ADV (Advertising Right Outside 2-4 New Broadway, Ealing), 161085ADV (34 The Broadway, Ealing W5 2NP), 161086ADV (Advertising Right Outside 51-53 New Broadway, Ealing), 164065ADV (Bus Shelter Advertisement, Ifo No. 437B (Sainsbury's), 437B Uxbridge Road, Ealing W5 3NT)

which collectively aim, amongst other things, to support the proactive conservation and enjoyment of Ealing's heritage assets and their significance.

17. In relation to Appeal A, the proposal would conflict with Policies D4, D5, and D8 of The London Plan which collectively provide, amongst other things, that development proposals should ensure that the public realm is well-designed, attractive, and related to the local and historic context. In relation to this main issue for Appeal A, the proposal would conflict with sections 7 and 12 of the Framework which collectively provide, amongst other things, that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation, and that planning decisions should ensure that developments are sympathetic to local character.
18. The reasons that I have provided above, with respect to the harmful effect that the proposal would have on the character and appearance of the area, apply equally with regards to the effect of the proposed advertisement on amenity, for Appeal B. Thus, in relation to Appeal B, the proposed advertisement would have an unacceptable effect on amenity, including in relation to the setting of the conservation area.
19. In accordance with Regulation 3(1) of the 2007 Regulations⁴, material to my findings are Policies 1.1 (g), 1.2 (f), 1.2 (g), 2.1 (c) and 2.10 of the Development Strategy, Policies 7.4 and 7B of the DPD, and Policies D4, D5, and D8 of The London Plan, all of which I have referred to with respect to Appeal A (above). For the reasons given above, in relation to this main issue for Appeal B, the proposed advertisement would conflict with all those Policies, and also with sections 7 and 12 of the Framework (referred to above). The appellant has referred to the 'Advertisements' section of the Planning Practice Guidance, and it follows from my reasoning above that the proposed advertisement would also conflict with that guidance. Accordingly, in accordance with paragraph 132 of the Framework, it is appropriate for express consent to be withheld for the advertisement, in the interests of amenity.

Public safety

20. I observed that, due in part to its proposed location near to The Oaks Shopping Centre, the proposal would be sited in an area of high footfall. Although a 'snapshot' in time, there is nothing before me to suggest my observations were untypical. The proposal would result in a reduction in the amount of footway available to pedestrians in this location. Nevertheless, a wide area of footway would remain and the proposal would be set away from other nearby items of street furniture, meaning that pedestrians would be able to safely walk this part of the footway. Furthermore, the nearest bus stop is situated sufficiently far away such that the proposal would not be an obstruction to bus users. Thus, the proposal would have an acceptable effect on public safety.
21. Therefore, in relation to this main issue for Appeal A, the proposal would comply with Policy 1.1 (g) of the Development Strategy which aims, amongst other things, to improve pedestrian links to the development corridors and neighbourhoods, and with Policies T2, T3, and T4 of The London Plan which collectively provide, amongst other things, that development proposals should

⁴ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

deliver patterns of land use that facilitate residents making shorter, regular trips by walking or cycling.

22. In relation to this main issue for Appeal A, the proposal would comply with sections 7 and 12 of the Framework which collectively provide, amongst other things, that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation, and that planning decisions should ensure that developments create places that are safe, inclusive and accessible.
23. The reasons that I have provided above for Appeal A, with respect to the acceptability of the proposal in relation to public safety, apply equally with regards to the effect of the proposed advertisement on public safety, for Appeal B. Thus, with respect to Appeal B, the proposed advertisement would have an acceptable effect on public safety. In accordance with Regulation 3(1) of the 2007 Regulations⁵, material to my findings are Policy 1.1 (g) of the Development Strategy and Policies T2, T3, and T4 of The London Plan, all of which I have referred to with respect to Appeal A (above). For the reasons given above, in relation to this main issue for Appeal B, the proposed advertisement would comply with all those Policies, and also with sections 7 and 12 of the Framework (referred to above).

Other Matters

24. The proposal would replace the existing telephone box at the appeal site. However, the Council have mentioned that the existing structure is unauthorised, and this has not been disputed by the appellant. As such, this is a neutral matter, which does not weigh favour of the proposal.
25. Reference has been made to Ealing's Digital Strategy⁶ and in this regard it is noted that the proposal would be multifunctional, and would provide communication and digital functions, which would be accessible to the public. These functions would include (amongst others), free ultrafast Wi-Fi, free phone calls to landlines and charities (such as those involved with mental health, homelessness and child protection matters), wayfinding, device charging facilities, and rapid connection to emergency services. The proposal would also incorporate an integral defibrillator, which is a potentially life-saving piece of equipment, and would have features to enable its accessibility by wheelchair users and the partially-sighted.
26. The appellant has mentioned the possible use of voice activation, which would be of particular benefit with respect to enabling use of the proposal without touching a screen or a handset, in the context of the ongoing coronavirus (COVID-19) pandemic. According to the appellant, the proposal could be adapted so that its use could be restricted, if required, to prevent misuse. Mention has been made of the potential use of the live touch screen for public authorities to interact with the public, and to provide a direct link to the Council's website. The appellant has also stated that the proposal would provide a platform for other technologies (such as environmental conditions, CCTV and key data, for example).
27. In light of the above, it is clear that the proposal would provide some support for the aims of section 10 of the Framework ('Supporting high quality

⁵ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

⁶ Connected Ealing: Ealing's Digital Strategy (2017/18 – 2020/21)

communications'), particularly paragraph 112, which mentions that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and that planning decisions should support the expansion of electronic communications networks. In this regard, the proposal could assist with the transition to a 'smart city'. I have also taken account of paragraph 116 of the Framework which mentions that planning authorities should not question the need for an electronic communications system.

28. Nevertheless, although the contribution to these high-level objectives is noted, as are the user benefits identified, and a figure for monthly impressions has been provided⁷, the evidence does not convincingly demonstrate the frequency with which the various user functions offered would be likely to be used.
29. Beyond the benefits offered to individual users, it is intended that the proposal would be part of a Borough-wide network of connected Communication Hubs, and the proposed display screen would have the capability to display messages to the public. These messages could include those from the Police and other local public agencies, such as messages relating to Council initiatives, public celebrations, emergencies, and matters relating to concerns of the local community. Additionally, the screen could be used to inform residents and visitors about local services (including retailers in Ealing Borough), local events and news.
30. In this respect, it is recognised that the proposal (including the commercial advertisements to be displayed) would somewhat complement the retail experience and would encourage the use of local facilities, which in turn would assist in supporting the vitality of the local area. As such, the proposal would assist in building a strong, competitive economy, and in ensuring the vitality of town centres, as detailed in sections 6 and 7 of the Framework, respectively. However, little evidence has been provided as to the likely scale or impact of such benefits.
31. It is noteworthy that, accordingly to the appellant, the type of unit proposed has been shortlisted in the IMEA 2020 Awards (with respect to both the integration of sustainability principles into the unit's design and its potential as a platform for social and community engagement and inclusion). Moreover, the proposal would incorporate solar energy generation, the digital screen would incorporate Power Factor Correction technology, and any external power would, either wholly or in part, be provided by renewable electricity. The appellant has committed to a high standard of workmanship with respect to the installation of the proposal on the footway, as demonstrated in the case study provided⁸, and the proposal would comply with the relevant regulations relating to the recycling of electrical and electronic waste.
32. Overall, I note that the evidence is lacking as to the likely scale and impact of the various benefits of the proposal, and therefore collectively I have given them moderate weight. Moreover, the benefits that would be created would arise via a proposal that would be unacceptably harmful to the character and appearance of the area, and to amenity, including the setting of the conservation area. Consequently, I find that the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harm

⁷ Appellant's Sustainability Aims and Achievements document

⁸ Appellant's Pavement Remediation - Smart Hub Proposals: Examples of Works to Highways document

identified on the first main issue for both Appeal A and Appeal B, nor the conflict with the development plan with respect to Appeal A.

Conclusions

33. I have found above that the proposal would be acceptable with respect to public safety, for both Appeal A and Appeal B. However, this does not overcome the conflict with the development plan in relation to matters of character and appearance (with respect to Appeal A) nor the harm that the proposed advertisement would cause in relation to amenity (with respect to Appeal B). Therefore, for the reasons given above, I conclude that Appeal A should be dismissed and that Appeal B should be dismissed.

Alexander O'Doherty

INSPECTOR