



Appeal Decisions

Site visit made on 28 July 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2022

Appeal A Ref: APP/A5840/W/22/3293394

Pavement on the south side of, New Kent Road corner of Rodney Place, London SE1 6AN

- 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 UK Limited against London Borough of Southwark.
 - The application Ref 21/AP/3864, dated 5 November 2021, was refused by notice dated 31 January 2022.
 - The development proposed is the installation of an open access communication hub, following the removal of an existing communication apparatus.
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Appeal B Ref: AAPP/A5840/H/22/3293396

Pavement on the south side of, New Kent Road corner of Rodney Place, London SE1 6AN

- 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 UK Limited against the decision of London Borough of Southwark.
 - The application Ref 21/AP/3865, dated 5 November 2021, was refused by notice dated 31 January 2022.
 - The advertisement proposed is an advertisement integrated into the proposed Communication Hub unit (21/AP/3864) and comprises an LCD portrait screen that will be used to show static illuminated content.
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Decisions

1. Appeal A and Appeal B are both dismissed.

Preliminary Matters

2. In Appeal B, I have taken the description of the proposed advertisement from the Council's Decision Notice as this is a more accurate description.
3. As set out above, there are two appeals on the site. I have considered each proposal on its own individual merits. However, the communication hub and advertisement are inextricably linked in each case. Therefore, to avoid duplication I have dealt with the two appeals together having regard to the independent requirements of both the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) for the proposals on each site.
4. In respect of Appeal B, Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and

the National Planning Policy Framework (the Framework) both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Regard does not need to be had to the development plan. I have taken relevant policies into account as a material consideration though they have not, by themselves, been decisive in my determination.

Main Issue

5. The main issue is the effect on highway and public safety.

Reasons

6. The appeal site is located on the pavement on the south side of New Kent Road at the corner junction with Rodney Place. The pavement area includes a two-way dedicated cycle lane and a pedestrian footpath. This section of New Kent Road is particularly busy with vehicular, cycle and pedestrian movements. Rodney Place has no entry from New Kent Road and has a left turn only exit onto New Kent Road. There is also a bus stop close to the appeal site.
7. The appeal site contains an existing telecommunications installation with a static advertisement facing traffic travelling in a westward direction towards the Elephant and Castle. The proposed LCD screen would be of a similar size and facing arrangement.
8. The PPG emphasises that all advertisements are intended to attract attention but proposed advertisements at points where drivers need to take more care are more likely to affect public safety.
9. Paragraph 068 of the PPG outlines that the main types of advertisement which may cause danger to road users are, amongst others, those which, because of their size or siting, would confuse a road-user's view, and; those internally illuminated signs (incorporating either flashing or static lights) including those utilising LED technology: i) where the means of illumination is directly visible from any part of the road; ii) which, because of their colour, could be mistaken for, or confused with, traffic lights; iii) which, because of their size or brightness distract road-users or iv) which are subject to frequent changes of the display.
10. The proposed digital advertisement would display static, illuminated, changing images facing and adjacent to the lanes carrying vehicles and cyclists traveling in a westward direction.
11. I observed the busy nature of the surrounding area with high volumes of cyclists, pedestrians and vehicles. This included the cycle lane where it crosses Rodney Place. Drivers accessing New Kent Road from Rodney Place are required to be aware of pedestrians and cyclists crossing the junction and traffic on New Kent Road, where they are also required to cross a bus lane and be aware of buses accessing and departing the nearby bus stop. Drivers on New Kent Road are also required to be aware of vehicles egressing from Rodney Place and that they will also be seeking to cross the bus lane into the second lane of traffic.
12. Similarly, cyclists travelling in a westward direction facing the development and the associated advertisement are required to be aware of traffic accessing New Kent Road from Rodney Place, on-coming cyclists and pedestrians who may

have inadvertently wandered into the cycle lane, of which I observed several on my site visit.

13. The proposed development in this context with its striking and changing illuminated digital advertisements would provide an unnecessary distraction to cyclists and road users for the concentration that is required. The proposed arrangement would also result in users of the facility being obscured from the view of westbound cyclists increasing the risk of collision when users of the facility have ceased their communication and re-join the pedestrian section of the pavement by crossing the cycle lane.
14. I acknowledge that the proposal would replace an existing kiosk which incorporates an advertisement. Fundamentally though, the proposed development, particularly its associated advertisement is of a different nature to the existing installation. Furthermore, the evidence shows that, as I observed on my site visit, there have been material changes in the make-up of the pedestrian and cycle routes surrounding the appeal site since the installation of the existing kiosk. I therefore give it limited weight in the appeal.
15. I therefore conclude that the proposed development and advertisement would have an unacceptable impact on highway and public safety. The development would be contrary to Policies T2, T5 and D8 of the London Plan (2021) and Policies P51 and P53 of the Southwark Plan (2022). Collectively, these policies seek to ensure the safety of pedestrians, cyclists and all highway users.
16. The proposal would also be contrary to the Framework which states that advertisements should be subject to control only in the interests of amenity and public safety, and that development should minimise the scope for conflict between pedestrians, cyclists and vehicles, and only be refused where there would be an unacceptable impact on highway safety.

Other Matters

17. I have considered the conditions suggested by the appellant. I consider that none of them including those relating to luminance, display time, content restriction and changing of images, would overcome the harm to public and highway safety that I have identified.
18. The proposed development would provide a communications facility for the public and would include a defibrillator. These are public benefits that weigh in favour of the proposed development. They do not, however outweigh the harm that would be caused to public and highway safety.

Conclusion

19. For the reasons set out above, and having had regard to all other matters raised, both Appeals A and B are dismissed.

A M Nilsson

INSPECTOR