



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/22/3293201

Pavement outside Metro Central Heights, New Kent Road, London SE1 6BX

- 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 the decision of London Borough of Southwark.
 - The application Ref 21/AP/3862, 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: APP/A5840/H/22/3293203

Pavement outside Metro Central Heights, New Kent Road, London SE1 6BX

- 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/3863, dated 5 November 2021, was refused by notice dated 31 January 2022.
 - The advertisement proposed is the advertisement integrated into the proposed Communication Hub unit (21/AP/3862) that 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 amenity, including having regard to the setting of the adjacent listed building.

Reasons

6. The appeal site is located on a footpath close to the Elephant and Castle, which is a major road junction. The site is situated in front of Metro Central Heights which is a Grade II listed building that is recognised as an important post-war office complex of a modernist style. It is experienced from various public vantage points including on both sides of New Kent Road leading from the Elephant and Castle junction.
7. The statutory duty from s66(1) of the Act¹ that requires decision makers to have special regard to preserving the listed building or its setting or any features of special architectural or historic interest applies to Appeal A but does not apply to Appeal B.
8. However, the setting of the listed building is a relevant material consideration when considering the effect on 'amenity'. The advertisement regulations state that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest.
9. Although the area around the Elephant and Castle junction contains a wide range of street furniture, including advertisements, the quantum begins to diminish when travelling towards the appeal site on New Kent Road. The area in front of Metro Central Heights containing the appeal site is slightly less cluttered and combined with the wide pavements allows for a greater appreciation of the building.
10. The proposed development and advertisement would be within the setting of the listed building and would be highly visible. It would visually compete with the listed building at street level. The display of illuminated images against the backdrop of the listed building would be striking and would harm its setting and detract from its significance and architectural features.
11. The proposed development would be prominent and would not integrate well into the street scene. The appeal proposal would create an alien and incongruous feature and in the context of existing street, this would add to the visual clutter of the street, the cumulative impact of which would be harmful to the appearance of the area.
12. I acknowledge that there is an existing kiosk with advertisement that is proposed to be removed. Its removal would enhance the setting of the listed building and be a benefit of the scheme. I give limited weight to the retention of the existing kiosk and advertisement as a fallback given that there are clear

¹ Planning (Listed Buildings and Conservation Areas) Act 1990

differences between it and the proposed development and its associated advertisement.

13. The Council have referred to the impact of the proposed development and advertisement on the amenity of occupants of surrounding residential properties. As I observed, the surrounding area is very active containing a number of commercial premises. I acknowledge that inappropriate illumination can cause harm to the amenity of residents. Were I to allow the appeal the imposition of appropriately worded conditions limiting levels of luminance and hours of illumination, would ensure that there would not be an unacceptable impact on the amenity of residents.
14. I therefore conclude that the proposed development and advertisement would have an unacceptable impact in terms of amenity, including on the setting of the listed Metro Central Heights. It would be contrary to Policy P43 of the Southwark Plan (2022) which requires that outdoor advertisements must avoid harm to the significance of heritage assets or their settings. It would also be contrary to Policy HC1 of the London Plan (2021) which requires that development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings.
15. The proposed development and advertisement would also be contrary to the heritage requirements of the Framework that when considering the impact of a proposed development on the significance of a heritage asset, great weight should be given to the asset's conservation.

Planning Balance and Conclusion

16. As outlined, the surrounding area is very active with a number of commercial properties and advertisements. In light of the context, and the overall size and scale of the proposal, in regard to the pertinent matters of Appeal A, I consider that there would be less than substantial harm to the setting of the listed building, Metro Central Heights. Such harm is nevertheless of considerable significance and weight in the balance.
17. The proposed development would remove the existing kiosk and 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 the setting of the listed building.
18. Therefore, 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