
Appeal Decisions

Site visit made on 16 August 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2022

Appeal A Ref: APP/X5210/W/22/3291826

Pavement Outside 148 Holborn, London EC1N 2NS

- 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 Mr Martin Stephens (JCDecaux) against the decision of the Council of the London Borough of Camden.
 - The application Ref 2021/2104/P, dated 30 April 2021, was refused by notice dated 11 January 2022.
 - The development proposed is installation of a new phone hub unit following removal of existing kiosk as part of wider proposals to replace Infocus telephone kiosks.
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Appeal B Ref: APP/X5210/W/22/3291828

Pavement Outside 148 Holborn, London EC1N 2NS

- 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 Mr Martin Stephens (JCDecaux) against the decision of the Council of the London Borough of Camden.
 - The application Ref 2021/3166/A, dated 30 April 2021, was refused by notice dated 11 January 2022.
 - The advertisement proposed is display of LCD advertisement display with static images on the side of new phone hub unit.
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Decisions

1. Appeal A is allowed and planning permission is granted for installation of a new phone hub unit following removal of existing kiosk as part of wider proposals to replace Infocus telephone kiosks at Pavement Outside 148 Holborn, London EC1N 2NS in accordance with the terms of the application, Ref 2021/2104/P, dated 30 April 2021, subject to the conditions contained in Schedule 1.
2. Appeal B is allowed and express consent is granted for display of LCD advertisement display with static images on the side of new phone hub unit. The consent is for five years from the date of this decision and is subject to the five Standard Conditions set out in Schedule 2 of the Regulations and the additional conditions contained in the attached schedule.

Preliminary Matters

3. For both appeals, I have taken the description of developments from the Decision Notices as these are a more accurate description of the respective proposals.
4. As set out above, there are two appeals on the site. I have considered each proposal on its own individual merits. However, the phone hub unit (kiosk) and

advertisement are inextricably linked. Therefore, to avoid duplication I have dealt with the two appeals together.

5. In respect of Appeal B only, 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.
6. During the course of the appeal, the Council brought to my attention that an older mode of kiosk at the appeal location was recently replaced by an ostensibly similar model in terms of its form and size. I observed this newer model on the site visit. The appellant has provided a statement which advises the newer model was granted express consent¹, which was due to expire. Regardless, the proposal before me is for a freestanding unit which is small and of different form to both the former kiosk and that existing on site at present, authorised or not. As such this has not had a bearing on my decision, and I have determined the appeal on the basis of the evidence submitted.

Main Issues

7. The main issues are as follows:

- For Appeals A and B - The effect of the proposal on the character and appearance/amenity of the area including the setting of heritage assets;
- For Appeal A - The effect of the proposal on highway safety and pedestrian mobility; and
- For Appeal A - Whether the proposal would be likely to increase opportunities for crime, disorder and anti-social behaviour in the area.

Reasons

Character and Appearance – Appeals A and B

8. The appeal site is located on the footpath lining Holborn and adjacent the entrance to the Chancery Lane tube station. The area is characterised by tall commercial buildings and the heavily trafficked Holborn road (A40), while the footpath itself includes other street furniture including street lights, signage, a bus stop and the existing phone box and kiosk, the latter of which would be replaced by the proposal as part of the development before me.
9. The new hub would be of a modern design and would have a smaller footprint and overall scale than the existing unit. It would have a width of around 1.1m, an overall height of around 2.4m and a depth of approximately 0.7m, including the canopy of the unit. The proposed advert would be of a size totalling 935mm by 1670mm and contained within the rear panel of the hub. The hub would therefore bring about a reduction in the overall volume of street furniture in the locality, and thus have a neutral impact on visual and/or physical clutter. Furthermore, its contemporary and modern design would respect the varied character of the immediate surrounding area.

¹ 2017/5195/A

10. The appeal site is located outside of, but adjacent to, the Bloomsbury Conservation Area (BCA), which the submitted Bloomsbury Conservation Area Appraisal and Management Strategy (AMS) describes as *noted for its formally planned arrangement of streets and the contrasting leafy squares. The urban morphology comprises a grid pattern of streets generally aligned running north-west to south-east and south-west to north-east, with subtle variations in the orientation of the grid pattern. The quintessential character of the Conservation Area derives from the grid of streets enclosed by mainly three and four storey development which has a distinctly urban character of broad streets interspersed by formal squares which provide landscape dominated focal points.*
11. I am also advised of two nearby Listed Buildings; the Grade II* *Prudential Assurance Building 142 Holborn Bars* (the Prudential), and Grade II *Obelisk Marking City Boundary of on North Side of Roadway, High Holborn* (the Obelisk). Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker to pay special attention to the desirability of preserving the setting of a Listed Building. National policy on heritage assets, which includes Listed Buildings, is set out in the Framework, paragraph 199 of which advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
12. There is little substantive analysis in the Council's Officer Report as to why the proposal would be harmful to the setting of either the BCA or Listed Buildings. There is a significant distance to the edge of the BCA from the appeal site, although the Listed Buildings are located closer. The immediate area has a distinctly modern character and as such contributes little to the setting of either the BCA or Listed Buildings. Given my conclusion that the replacement of the existing hub with a smaller model of similar appearance would not harm the character and appearance of the local area, it follows that neither the hub nor the advertisement would not harm the setting of the BCA or Listed Buildings.
13. Taking these factors into account, I am satisfied that the proposed kiosk is acceptable in terms of its effects on the character and appearance of the area, including on the setting of nearby BCA and Listed Buildings. The advertisement would be acceptable with regards to the amenity of the area. The kiosk therefore complies with Policies D1 and D2 of the Camden Local Plan (LP) (adopted 2017), which seeks to ensure development respects local context and character while preserving and, where appropriate, enhancing Camden's rich and diverse heritage assets and their settings. The proposal would also comply with national guidance in the Framework regarding the need to sustain the significance of heritage assets.

Highway and Pedestrian Safety – Appeal A

14. The proposed hub would be positioned with the rear element featuring the advertisement facing to the west. This would be in a similar manner to the existing hub, although the depth of the proposed unit is much less than the existing model as demonstrated in the appellant's evidence. I note the concerns of the Council that the pinch point would occur between the hub and the stairs of the tube station.

15. However, given the freestanding structure would be of decreased depth over that existing, this would increase the amount of space for pedestrians to pass one another. The Council agrees in its officer report that the distance would meet most guidance with regards to footway depth, such as that advised in the Pedestrian Comfort Guidance (Transport for London) and the 'Design' document (Camden Planning Guidance January 2021). Although there is reference to an estimate of 2m, there is nothing substantive before me to demonstrate that this is the case and from my observations on the site visit, pedestrians were able to pass freely without obstruction even with the larger model. This would also not cause people using the footpath to be forced into the road and increase the risk of collisions with vehicles.
16. It is mentioned that transport colleagues were consulted on the proposals and objected. However, these are not referenced in the consultee response section of the officer report, nor were copies of their response forwarded with the appeal documents. In any event, based on the evidence before me, and my own observations, I see no reason to conclude that the hub would be harmful to pedestrian or highway safety.
17. I am directed to other appeal decisions based on apparently similar proposals which were dismissed. I have limited details on any of these. In any event, each proposal is assessed on its own merits and while consistency in decision making has its own importance this does not justify taking the same decisions in this proposal.
18. Based on the above, the proposed hub would not harm pedestrian and highway safety, in accordance with Policies G1, A1, C6 and T1 of the LP. These seek, among other things, to ensure development prioritises walking, cycling and public transport throughout the Borough, including improving the pedestrian environment.

Crime and Anti-Social Behaviour – Appeal A

19. The Council has concern related to the potential of the proposal to facilitate crime as the free phone service could be used in connection with criminal activities, while also encouraging anti-social behaviour. To address these concerns, the appellant has submitted a Management Plan (Communication Hub Unit Management Plan – V1 October 2020), which was assessed by the Metropolitan Police.
20. Although there were some concerns raised, the police raised no objection subject to conditions, including that the new hub is operated in compliance with the Management Plan, and that a CCTV camera should be integrated into the development and be operated from the outset. The hub would provide free phone calls, but these cannot be made to mobile telephone numbers. The Met officer has confirmed that this measure will be positive in helping to reduce any possible criminal activity.
21. Based on the above, the proposal is unlikely to increase opportunities for crime and anti-social behaviour in the area, in accordance with Policy C5. This policy requires developments to demonstrate that they have incorporated design principles which contribute to community safety and security, particularly in wards with relatively high levels of crime, such as Holborn.

Other Matters

22. The Council references an existing phone hub on the north side of Holborn operated by another provider in close proximity to the appeal site. However, neither the officer report nor the appeal statement submitted by the Council provides further detail on this unit. I did not observe this on the site visit, and I have no information before me to justify this concern.
23. The need for a phone hub in this location has been questioned given there is already an older phone kiosk next to the appeal site and many others in the Borough. However, I have assessed the proposal on its own merits and found it to be acceptable subject to conditions. Therefore, the presence of other suitable sites would not justify the withholding of permission and consent in this particular case. Moreover, paragraph 118 of the Framework states local planning authorities must determine applications on planning grounds only. They should not question the need for an electronic communications system, among other things. A legal agreement to ensure the existing hub in the development location is not considered necessary as the proposal could not be installed without the existing unit being removed in any event.
24. In addition to the lack of harm I have identified, the hub would provide some modest benefit in terms of providing services to the public, including USB charging points, wi-fi, a free phone service and a defibrillator.
25. There is reference to harm to the setting of the Hatton Gardens Conservation Area, although other than a small map extract, I have no other information on this matter. As such, I have not considered it further.

Conditions

26. I have taken account of the conditions recommended by the Council, which I note the appellant does not dispute. Conditions to specify the commencement of development and the approved plans are necessary for the avoidance of doubt, while the management plan is also included to ensure the measures outlined are upheld. In addition, a condition requiring the removal of the proposed hub when it is no longer required is necessary, as this ensures there would be no unnecessary street furniture.
27. As well as the standard five conditions set out in the Regulations, conditions relating to levels and hours of illuminance and to ensure no music emanates from the advertisement display are necessary to maintain amenity. In the interests of highway and public safety, conditions are necessary in relation to the advertisement containing no visual effects, confusion with signage, having a minimum display time of 10 seconds, and any change in image being instantaneous.

Conclusion

28. For the reasons given above and having had regard to all other matters raised, Appeal A and Appeal B are allowed.

C McDonagh

INSPECTOR

Appeal A - Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Site Maps and Visuals, Ref A01597; Hub Unit Detail, Appendix JCD 4; Management Plan.
3. The structure hereby permitted shall be removed from the land on which it is situated as soon as reasonably practicable after it is no longer required for telecommunication purposes and the land shall be restored to its condition before the development took place.

END OF SCHEDULE

Appeal B – Schedule of Conditions

The following conditions are attached to this consent, in addition to the five standard conditions set out in the Regulations, which are not repeated in this schedule.

1. The advertisement display shall be statically illuminated and the intensity of the illumination of the digital signs shall not exceed 2500 candelas per square metre during the day and 400 candelas per square metre during the hours of darkness in line with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements' 2015. 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 digital sign shall not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements).
3. The minimum display time for each advertisement shall be 10 seconds.
4. The interval between advertisements shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including fading, swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.
5. No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.
6. The footway and carriageway on the Transport for London Road Network (TLRN) and Strategic Road Network (SRN) must not be blocked during the installation and maintenance of the advertising panel. Temporary obstruction during the installation must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians or obstruct the flow of traffic.
7. No music or sound shall be emitted from the advertisements.

END OF SCHEDULE