



Appeal Decisions

Site visit made on 1 November 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal A Ref: APP/T5150/W/22/3291140

Pavement adjacent to 69-71 Craven Park Road, Harlesden, London NW10 4AG

- 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 James Browne (BT Telecommunications Plc) against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/3898, dated 28 September 2021, was refused by notice dated 14 December 2021.
 - The development proposed is described on the application form as, "Proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s)".
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Appeal B Ref: APP/T5150/H/22/3291141

Pavement adjacent to 69-71 Craven Park Road, Harlesden, London NW10 4AG

- 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 James Browne (BT Telecommunications Plc) against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/3899, dated 28 September 2021, was refused by notice dated 14 December 2021.
 - The advertisements proposed are described on the application form as, "Proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of associated BT kiosk(s)".
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. During the course of the appeals the Brent Local Plan 2019-2041 (adopted February 2022) (Local Plan) was adopted. The main parties were provided with an opportunity to comment. The Council made comments on the relevant policies of the new Local Plan and I have taken their comments into account. I have had regard to the newly-adopted Local Plan, in my decisions.
4. 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

5. The main issues with respect to Appeal A are the effect of the proposal on the character and appearance of the area, the effect of the proposal on public safety, and the effect of the light emitted from the proposed LCD advertisement screens on nearby sensitive properties.
6. The main issues with respect to Appeal B are the effect of the proposed advertisements on amenity, the effect of the proposed advertisements on public safety, and the effect of the proposed advertisements on amenity with particular regard to the light emitted from the proposed LCD advertisement screens on nearby sensitive properties.

Reasons: Appeal A and Appeal B

Character and appearance / amenity

7. The site for these appeals is located on Craven Park Road, near to the junction with St Albans Road. This part of Craven Park Road consists of a wide assortment of colourful retail and commercial frontages at ground-floor level.
8. The site is close to a low wall, a road sign post, 2 bike racks, a bin, and a salt box. A nearby advertisement structure is positioned close to 66 Nicoll Road. Hence, the area surrounding the site is already quite cluttered by street furniture. As the proposed Street Hub would be positioned in close proximity to these items, it would serve to add further clutter to this area.
9. Additionally, due to its size and scale it would appear far bulkier than the items of street furniture situated immediately around it and considering its prominent location, close to the junction with St Albans Road, it would appear as an over-dominant feature in this location. As the Street Hub would contain 2 large LCD screens the nearby tree would do little to mitigate the harmful effects that the proposals would cause to the character and appearance of the area.
10. I observed the telephone kiosk outside 19 Craven Park Road (No 19), which contains a single-sided digital advertisement, but as the area surrounding that structure is not as cluttered as the site is with respect to street furniture that example is not directly comparable to the proposals, and it does not change my findings.
11. I note that the proposals seek to remove 2 existing telephone kiosks which currently serve to clutter the area, replacing these with a contemporarily-designed Street Hub. Additionally, the appellant has stated that the development outside No 19 removed only one kiosk. Nevertheless, given the demonstrable harm to the character and appearance of the area that would be caused via the proposals, identified above, in my view these considerations would not adequately off-set the harm caused.
12. I have had regard to appeal decisions Refs APP/Z4310/W/18/3205104 & APP/Z4310/W/18/3205102. However, as no plans have been provided it has not been possible to make a meaningful comparison with the proposals before me, including with respect to the nature of the street scene involved in those appeals. I note that the Inspector referred to the variety of illuminated

advertisements in the vicinity, including digital advertisement screens, whereas digital advertisement screens are not common near the site, which further reduces the relevance of those appeal decisions to the proposals before me. Accordingly, those appeal decisions do not change my findings.

13. Therefore, in relation to Appeal A, I find that the proposal would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with Policies DMP1 and BD1 of the Local Plan which collectively provide that, amongst other things, development will be acceptable provided it is of a siting and design that complements the locality. The proposal would conflict with Policy D3 of The London Plan (published 2021) which provides that, amongst other things, development proposals should respond to the existing character of a place by identifying the special and valued features and characteristics that are unique to the locality. It would also conflict with paragraph 130 c) of the National Planning Policy Framework (the Framework) which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history.
14. The reasons that I have provided above apply equally with regards to the effect of the proposed advertisements on amenity, for Appeal B. Thus, in relation to Appeal B, I find that the proposed advertisements would have an unacceptable and harmful effect on amenity. In accordance with Regulation 3(1) of the 2007 Regulations¹, material to my findings are the same policies which I have referred to with respect to Appeal A, above. For the reasons given above, in relation to Appeal B, the proposed advertisements would conflict with all those policies.

Public safety

15. Upon construction of the proposed Street Hub, approximately 5.3 metres of clear space would remain to the side of the unit. This would meet the recommended minimum footway width (total width) for 'high flow' areas, given in the Pedestrian Comfort Guidance for London: Guidance Document (Transport for London, 2010).
16. However, as mentioned on the first main issue above, the site is situated in a particularly cluttered location with respect to existing street furniture, and the nearby tree serves to further reduce opportunities for pedestrian movement in this location. More importantly, the existing brick wall effectively restricts the width of the footway in close proximity to the site.
17. Consequently, whilst the proposed Street Hub would be only approximately 350mm wide, it would remove a much-needed passing place for pedestrians, and particularly for individuals in wheelchairs. Therefore, the proposals would result in an obstruction that would unacceptably impede pedestrian movement in this busy commercially-orientated area. This effect would be exacerbated if someone were to be standing to the side of the proposed Street Hub whilst using its side panel.
18. I observed that visibility is already obscured somewhat when looking to the right, for vehicles exiting St Albans Road onto Craven Park Road, due to the presence of the tree and a road signage post. Due to its proposed siting so close to the road, the proposed Street Hub would constitute a further visual

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

obstruction, and the LCD screen (which would be facing towards the junction) would act to distract drivers looking right when exiting the junction. Thus, I consider that, even taking account of the fact that vehicles may at times be moving slowly along this part of Craven Park Road, the proposals would result in an unacceptable impact on highway safety at this junction.

19. Visibly is also obscured somewhat for drivers looking left when approaching the turning out of Nicoll Road onto Craven Park Road due to an advertisement structure positioned near to 66 Nicoll Road near the junction, and the road signage post referred to above. However, as the primary focus of drivers exiting the junction would be towards oncoming vehicles to the right, I consider that the proposals would not result in an unacceptable impact on highway safety with respect to this junction. This does not however off-set the harms identified above.
20. The proposals would remove 2 existing kiosks which currently take up space on the footway. However, those kiosks are set apart from the site, meaning that their removal would not alter the unacceptable effects that the proposals would cause with respect to pedestrian movement and highway safety, identified above.
21. I observed the existing advertisement structure referred to by the appellant at Kilburn High Road, but as the footway around that structure is not as cluttered as the area around the site is, that example is not directly comparable with the proposals. I have also taken note of the Inspector's comments with respect to highway safety in appeal decisions Refs APP/Z4310/W/18/3205104 & APP/Z4310/W/18/3205102 but as no plans have been provided it has not been possible to make a meaningful comparison with the proposals before me. Therefore, none of these matters changes my findings on this main issue.
22. Therefore, in relation to Appeal A, I find that the proposal would have an unacceptable effect on public safety. It would conflict with Policy BT1 of the Local Plan, which provides that, amongst other things, the Council will require developments to design public realm to meet healthy streets principles and provide access for all.
23. The reasons that I have provided above, apply equally with regards to the effect of the proposed advertisements on public safety, for Appeal B. Thus, in relation to Appeal B, I find that the proposed advertisements would have an unacceptable effect on public safety. In accordance with Regulation 3(1) of the 2007 Regulations, material to my findings is the same policy which I have referred to with respect to Appeal A, above. For the reasons given above, for Appeal B, the proposed advertisements would conflict with this policy.

Lighting levels

24. The Council has expressed concern that the lighting levels proposed for the 2 LCD screens would be significantly high, making reference to the Institute of Lighting Professionals guidance on the reduction of obtrusive lighting. However, with respect to the luminance of illuminated advertising signs, that guidance directs the reader to the Institute of Lighting Professionals document *The Brightness of Illuminated Advertisements (Professional Lighting Guide 05)* (2014). The lighting levels proposed for the LCD screens would be within the thresholds set out in that document, including the maximum of 5,000cdm⁻² for daytime sign luminance, given in Note 1 of Table 4 of that document.

25. Furthermore, if the proposals were acceptable in all other respects, potentially the option of seeking technical information from the parties regarding the lighting impacts of the proposed LCD screens on nearby properties would have been open to me. Planning conditions could then potentially be imposed to ensure that any unacceptable impacts would not occur, including to require that the maximum daytime brightness conforms to the guidance given in Advertisements (Other Than Shops) (Supplementary Planning Guidance Number 8) (2004).
26. Therefore, in relation to Appeal A, I find that the effect of the light emitted from the proposed LCD advertisement screens on nearby sensitive properties would be acceptable. In relation to this main issue, the proposal would comply with Policy DMP1 of the Local Plan which provides that, amongst other things, development will be acceptable provided it is not unacceptably increasing, and where possible reducing, exposure to light.
27. The reasons that I have provided above, apply equally with regards to the effect of the proposed advertisements on amenity, for Appeal B. Thus, in relation to this main issue for Appeal B, I find that the effect of the proposed advertisements on amenity with particular regard to the light emitted from the proposed LCD advertisement screens on nearby sensitive properties would be acceptable. In accordance with Regulation 3(1) of the 2007 Regulations, material to my findings is the same policy 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 advertisements would comply with this policy.

Other Matters and Planning Balance

28. I note that the appellant actively sought to engage with the Council and various stakeholders including the local community and elected representatives, prior to submitting the applications. However, in terms of the planning merits of the appeals, this is a neutral matter, which does not weigh in favour of the proposals.
29. The proposals would remove 2 existing kiosks which do not complement the street scene. This would also help to reduce the anti-social behaviour issues mentioned by the Council's Neighbourhood Manager. When comparing the footprint of the existing kiosks to the proposed Street Hub, the proposals would declutter a greater area of pavement and thereby free-up space. However, in doing so the proposals would cause demonstrable harm to the character and appearance of the area, which accordingly limits the weight which can be given to these considerations.
30. The proposals would also provide a number of other benefits to the local community, which in summary include ultrafast Wi-Fi, environmental monitoring (including air quality, noise, and traffic), 5G mobile network coverage, free phone calls, access to charities, Council services, and BT's phone book, local weather information, maps, wayfinding, rapid device charging, public and community messaging, discount advertising for local business groups, payment of business rates when requested by the Council, and access to public and emergency services.
31. All these benefits would be in compliance with a number of the Council's development plan policies, relevant policies of The London Plan, and relevant paragraphs of the Framework, including paragraph 114 of the Framework

which provides that, amongst other things, 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, including next generation mobile technology (such as 5G).

32. These benefits would also contribute to the aspirations highlighted in Brent's Digital Strategy (2019-2023) and Brent's Inclusive Growth Strategy (2020 Review) to improve Brent's digital infrastructure, including through the use of 'Smart Cities' technology with respect to air quality and traffic congestion issues. Moreover, the articles provided relating to kiosks in New York City and Wi-Fi being employed in retail stores demonstrates the importance of digital connectivity in supporting both the quality of life of local residents and economic growth.
33. However, whilst I recognise that the proposed Street Hub is intended to be part of a wider network, for the purposes of these appeals I must assess the proposals on their own merits. In this respect, given that the proposed Street Hub's individual contribution to the above-mentioned policy objectives would likely be modest, I have given the collective benefits of the proposals to the public and the local community moderate weight in support of the proposals.
34. The proposals would give rise to adverse impacts in relation to their unacceptable and harmful effect on the character and appearance of the area and on public safety, in the terms I have described above. As the Framework provides at paragraph 126 that, amongst other things, the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, I ascribe substantial weight to these harms.
35. Considering this, in relation to Appeal A, as a matter of planning judgement I find that the matters advanced in support of the proposal, do not, either individually or collectively, outweigh the harms identified, nor the conflict with the development plan identified.
36. In relation to Appeal B, a similar range of benefits would arise via the proposal. However, the 2007 Regulations make clear that advertisements should be subject to control only in the interests of amenity and public safety. Appeal B has been assessed on this basis. Therefore, in relation to Appeal B, none of the other considerations raised changes my findings on the main issues.

Conclusions: Appeal A and Appeal B

37. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that Appeal A should be dismissed and that Appeal B should be dismissed.

Alexander O'Doherty

INSPECTOR