
Appeal Decisions

Site visit made on 9 November 2022

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 November 2022

Appeal A Ref: APP/C5690/W/22/3295370

Pavement o/s 90-92 Rushey Green, Catford, London SE6 4HW

- 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 Lewisham.
 - The application Ref DC/21/124920, dated 20 December 2021, was refused by notice dated 8 March 2022.
 - 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/C5690/H/22/3295371

Pavement o/s 90-92 Rushey Green, Catford, London SE6 4HW

- 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 Lewisham.
 - The application Ref DC/21/124921, dated 20 December 2021, was refused by notice dated 8 March 2022.
 - 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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Decisions

1. Appeal A: The appeal is dismissed.
2. Appeal B: The appeal is dismissed.

Procedural Matters

3. As set out above, there are two appeals on the site. I have considered each proposal on its own individual merits. However, the street hub and the advertisements 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) and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations).
4. In respect of Appeal B, Regulation 17 of the Regulations and the National Planning Policy Framework (the Framework) 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. Nonetheless, whilst the policies referred to by the Council have not by themselves been decisive for Appeal B, I have taken them into account as a material consideration.

Main Issues

5. The main issue for Appeal A is the effect of the proposal upon the character and appearance of the area.
6. The main issue for Appeal B is the effect of the advertisements on public safety.

Reasons

Character and Appearance

7. The proposal would introduce a street hub to the outer edge of the pavement which runs along the western side of Rushey Green. Rushey Green is a busy mixed use thoroughfare, with a pronounced commercial presence and large scale premises lining the streets. Nevertheless, the proposals would be prominently located on what is currently a wide and relatively uncluttered section of pavement. As such, the height and design of the street hub, with its large area of digital display, would be an incongruous and obtrusive addition to the relatively well maintained and open streetscape.
8. The appellant proposes to remove three payphones as part of the appeal scheme. This would lead to improvements to the appearance of the area in which they are located and would provide increased space for pedestrians. It is also likely that anti-social behaviour would be reduced. The latter needs to be considered in the context that the Metropolitan Police has recommended the removal of payphones in the Rushey Green area due to anti-social behaviour. That said, the Street hub roll out programme requires the removal of four payphones for every new one provided and therefore the proposal is below this threshold.
9. Two of the existing payphones identified for removal are located outside 125-129 Rushey Green, are sited adjacent to a wide landscaped area. Given this context they do not appear as prominent features within the streetscene. As a result, the benefits to the appearance of the streetscene, arising from their removal, would be limited. They would not outweigh the significant harm caused by the proposal to the character and appearance of the area, when taken as a whole.
10. I conclude, on this main issue, that the proposed development would significantly harm the character and appearance of the area. It would therefore be contrary to Policies T2, T4 and D8 of the London Plan (March 2021) (LP), Policy DM35 of the Lewisham Development Management Local Plan (November 2014) (DMLP), the Transport for London Streetscape Guidance and paragraph 126 of the Framework. These policies seek, amongst other matters, to create a well-designed, safe, accessible public realm that is related to its local context.

Public Safety

11. The National Planning Practice Guidance section on advertisements states that all advertisements are intended to attract attention. That said, it indicates that the main type of advertisement which could cause danger to road users

includes illuminated signs, where the means of illumination is directly visible from any part of the road, or where the size or brightness could result in glare and dazzle or distract road users.

12. The appellants assert that the street hub would be 6 metres from the edge of the cycle lane and highway for private vehicles. Whilst private vehicles would be some distance from the proposed street hub, cyclists, taxis and solo motorcycles would be permitted to use the bus lane that runs directly adjacent to the proposal. Given this relationship, and the brightness of illumination proposed, the advertisements would distract or dazzle road users, particularly those travelling in a northerly direction.
13. In this regard I have taken into account the accident statistics provided by Transport for London (TfL) which indicate that there have been 38 collisions with 100m of this site within the past six years, including 16 involving a cyclist or pedestrian. I acknowledge that there can be many reasons why collisions occur, and in the absence of substantive evidence for each of those cases, it would be wrong to speculate as to whether distraction was a factor involved. That said, given the volume of traffic circulating along Rushey Green, I have taken a cautionary approach in finding that advertisements, of the luminance proposed, would be likely to distract road users, and as a consequence would lead to an increased likelihood of collisions occurring.
14. The appellants have suggested that if there are concerns regarding the lighting levels, this could be agreed by use of an appropriate condition. In this regard the Council have provided draft conditions which would limit the luminance to 280cd/m² between dusk and dawn and 600 cd/m² at other times. TfL have suggested that the advertisements should be switched off between the hours of 11.59pm and 6am, however in the event that they are not switched off the level of illumination should not exceed 280cd/m² between dawn and dusk.
15. A reduction in the brightness of the advertisement would limit the potential to dazzle road users. That said, given the proximity of the proposed advertisement to the edge of the pavement there would still be a significant distraction to road users that could lead to collisions.
16. In light of the above I consider that the proposal would be likely to cause unacceptable harm to public safety and, in so far as they are material, would not accord with Policies T2 and T4 of the LP and Policy 14 of the Lewisham local development framework Core Strategy (June 2011), which jointly seek to reduce road danger and improve street safety. Policy DM19 of the DMLP relates primarily to shopfronts is not relevant to the case before me. The proposal would also be contrary to Paragraph 136 of the Framework which seeks to prevent development that would result in an unacceptable impact on highway safety and supports well sited and designed advertisements.

Other Matters

17. The Council, in their officers report, indicate that the width of the pavement that would remain following installation of the Street hub would fall below their expectations. That said, from what I saw it would still be wide enough to ensure a free flow of pedestrians.
18. I have taken into account the survey data provided by the appellants, with regard to the provision of free Wi-Fi in store. However, in the absence of

substantive data relating to any economic benefit of free Wi-Fi provided by street hubs, the magnitude of any benefit is unknown. Accordingly, I give the public benefits arising from this matter only limited weight. Thus, in respect of Appeal A, I find that overall, the public benefits of the proposal do not outweigh the harm to the character and appearance of the area that I have identified. Insofar as Appeal B is concerned, there is no indication in the Regulations, Framework or Planning Practice Guidance, that any factors, other than amenity and public safety, can be taken into account either for, or against, a proposal.

19. I also acknowledge that the appellants have sought the advice of the Council as to what would be acceptable development, and has made amendments to the proposal, however this does not alter the conclusions that I have reached.

Conclusion

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

John Gunn

INSPECTOR