
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: 30 November 2022

Appeal A Ref: APP/C5690/W/22/3295372

Pavement outside Aldi, Rushey Green, Catford, London SE6 4JD

- 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/21/124924, dated 20 December 2021, was refused by notice dated 9 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/22/3295373

Pavement outside Aldi, Rushey Green, Catford, London SE6 4JD

- 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/21/124925, dated 20 December 2021, was refused by notice dated 9 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 appeal site is located towards the northern end of Catford Town Centre on a busy mixed use thoroughfare. The area has a pronounced commercial character, albeit there are a small number of residential properties on the eastern side of Rushey Green.
8. The proposal would introduce a street hub to the outer edge of a wide and relatively uncluttered pavement which runs along the western side of Rushey Green. Its height and design, which incorporates a large area of digital display, would result in the addition of a prominent, incongruous and obtrusive feature in an otherwise well maintained and open streetscape.
9. The appellant proposes to remove three payphones as part of the appeal scheme. 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.
10. The removal of the payphone to the south of the appeal site would result in the loss of a prominent, and poorly maintained, feature within the streetscene, which would lead to an improvement in the visual appearance of that part of Rushey Green. That said, the payphones to the north and north east are more remote from the road, and adjacent landscaped areas, and as a consequence, they are not prominent features within the streetscene. Therefore, whilst the removal of three existing payphones would lead to some improvements to the visual appearance of the area, they would not provide significant, and direct, mitigation against the proposal itself. Consequently, when taken as a whole, the benefits of their removal would not outweigh the harm caused by the proposed development.
11. Overall, on this main issue, I conclude that the limited benefits of removing three existing payphones would not outweigh the significant harm the installation of a new street hub would have to the character and appearance of the area. The proposal would therefore be contrary to Policies T2, T4 and D8 of the London Plan (March 2021) (LP), DM Policy 35 of the Lewisham Development Management Local Plan (November 2014) (DMLP), the Transport for London Streetscape Guidance and paragraph 136 of the Framework. These policies seek, amongst other matters, to control advertisements in the interests of amenity and create a well-designed public realm that is related to its local context.

Public Safety

12. The 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.
13. The street hub would be directly adjacent a bus lane which is accessible to cyclists, taxis and motorcycles. A zebra crossing lies a short distance to the north close to the junctions of Rushey Green with Bradgate Road. The close proximity of the proposed street hub to the bus lane, the pedestrian crossing and the junction, combined with the brightness of the proposed advertisements would result in road users being distracted at a time when their full attention is required. This would particularly affect road users travelling in a northerly direction.
14. Accident statistics provided by Transport for London (TfL) indicate that there have been a significant number of collisions within the vicinity of the appeal site in the last three years, including some that involved cyclists or pedestrians, one of which was fatal. In locations with high collision rates the Guidance for Digital Roadside Advertising and Proposed Best Practice produced by TfL advises that there should be a detailed analysis carried out to consider the appropriateness of the location and the level of risk in a methodical rather than subjective manner. No such analysis is before me.
15. There can be many reasons why collisions occur, the accident records are indicative of the prevailing traffic conditions that exist in the locality and the conflicts that have arisen between competing road users. As a result, 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 be likely to increase the number of collisions that would occur.
16. The proposed luminance of the advertisements subject to Appeal B would be high even in a city centre environment. The appellants have indicated that if there are concerns regarding the lighting levels, this could be agreed by use of an appropriate condition. 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.
17. A reduction in the brightness of the advertisements, or being switched off during the night, would limit the potential of the advertisements to dazzle road users, particularly during periods of darkness. That said, given the proximity of the proposed advertisement to the edge of the pavement, and closeness of the pedestrian crossing and road junction, the advertisements would still be a source of distraction to road users that could lead to collisions.
18. In light of the above the proposal would 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. DM Policy 19 of the DMLP relates primarily to shopfronts and consequently is not relevant to the case before me. The proposal would also be

contrary to Paragraph 136 of the Framework which, amongst other matters, seeks to control advertisements in the interests of public safety, taking account of cumulative impacts.

Other Matters

19. The removal of the three existing payphones would increase space available for pedestrians, Furthermore, it is likely that there would be some reduction in anti-social activity arising from their removal, a matter supported by the Metropolitan Police. These are factors that weigh in favour of Appeal A. However, given the lack of substantive evidence in respect of these matters I am unable to quantify the extent of the benefit. Consequently, I give them little weight.
20. Paragraph 114 of the Framework indicates that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. The Framework also seeks to support the expansion of electronic communications networks. A data connection point and further services are included within the proposed hub. These are public benefits which count in favour of Appeal A. However, much of what is offered is already widely available in the form of mobile phones, which limits the weight I afford to these benefits, and which in practical terms would only be modest.
21. I have taken into account the appellants evidence, which indicates that access to free Wi-Fi would encourage over 80 per cent of shoppers to visit local retailers. They assert that this approach should also be applied to street hubs, which would give a comparable benefit to the economic well-being of the area. However, in the absence of substantive evidence to support this assertion the magnitude of any benefit is unknown. Accordingly, I give the public benefits arising from this matter neutral weight.
22. Overall, in respect of Appeal A, I find that the public benefits do not outweigh the harm to the character and appearance of the area.
23. I acknowledge that the appellants have sought the advice of the Council as to what would be acceptable development, however this does not alter the conclusions that I have reached.

Conclusion

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

John Gunn

INSPECTOR