



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: 30th November 2022

Appeal A Ref: APP/T5150/W/22/3291144

Pavement o/s Challenge House, 1-2 Bank Buildings, 20 High Street, Harlesden, London NW10 4LT

- 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 21/3902, dated 28 September 2021, was refused by notice dated 13 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/22/3291145

Pavement o/s Challenge House, 1-2 Bank Buildings, 20 High Street, Harlesden, London NW10 4LT

- 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 21/3903, dated 28 September 2021, was refused by notice dated 13 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 whether the proposal would preserve or enhance the character or appearance of the Harlesden Conservation 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, including the Harlesden Conservation Area, 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

Conservation area / amenity

7. The site for these appeals is located outside 1-2 Bank Buildings, near the edge of the kerb on the High Street in Harlesden. The site is within the Harlesden Conservation Area (conservation area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
8. The significance of the conservation area, as a whole, as a designated heritage asset is derived predominantly from the examples of high quality period architecture commonly found above ground-floor level, often consisting of clearly-articulated decorative details and attractive brickwork. The site contributes to the significance of the conservation area primarily due to affording views of the well-maintained historic architecture present above ground-floor level on nearby properties on both sides of the street.
9. I observed the signage on the bus shelter (Harlesden Jubilee Clock bus stop), and a structure with a touch screen on one side and an LCD screen facing away from the site on the other side, both of which are positioned near to Peacocks, but as these are positioned near the other end of this part of the High Street with street trees in-between them and the site, their visual effect on the street scene when viewed from near the site is not significant.
10. In this context, whilst many colourful shopfronts are present at ground-floor level near the site, some with illuminated fascia's, due to its size, scale, contemporary design, and extensive areas of 2 illuminated LCD screens, the proposed Street Hub would jar with and unduly detract from the examples of historic architecture which are in clear view around the site. Moreover, due to its proposed placement near bike racks, a litter bin, a street signage post, and a bench, the proposed Street Hub would exacerbate the sense of clutter from street furniture in this location.
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. 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 also taken note of the Inspector's comments with respect to heritage assets in 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 (even taking account of the LCD screen positioned near to Peacocks) 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. Appeal decision Ref APP/T5150/Z/18/3201678 involved only one advertisement, to be affixed to the side of an existing telephone kiosk, rather than a completely new structure. As such, whilst I concur with the Inspector's description of Harlesden High Street, the Inspector was considering a materially different proposal to those before me. Consequently, that appeal decision does not alter my findings.
14. Taking all of the above into account, I consider that the proposals would undermine the character and appearance of the nearby historic architecture, which would cause harm to the significance of the conservation area as a designated heritage asset. As the harm caused would be localised, the proposals would cause less than substantial harm to its significance, but nevertheless this harm is of considerable importance and weight. The National Planning Policy Framework (the Framework) advises that such harm should be weighed against the public benefits of the proposals.
15. 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.
16. 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.
17. All these benefits would be in compliance with a number of the Council's development plan policies, relevant policies of The London Plan (published 2021), 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).

18. 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.
19. The Framework makes clear that great weight needs to be given to designated heritage assets' conservation. 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. Considering this, in relation to Appeal A I find that all these benefits do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the significance of the conservation area.
20. Therefore, in relation to Appeal A, I find that the proposal would not preserve or enhance the character or appearance of the conservation area. In relation to Appeal B, a similar range of public benefits would arise via the proposal. However, the 2007 Regulations¹ 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.
21. In relation to Appeal A, the proposal 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. It would conflict with Policy BHC1 of the Local Plan which provides that, amongst other things, proposals affecting heritage assets should sustain or enhance the significance of the heritage asset.
22. In relation to Appeal A, the proposal would conflict with Policy D3 of The London Plan 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 Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history.
23. 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, including the conservation area. In accordance with Regulation 3(1) of the 2007 Regulations, material to my findings are the same policies which I have referred to with respect to Appeal A, above. For the

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

reasons given above, in relation to Appeal B, the proposed advertisements would conflict with all those policies.

Public safety

24. Due to its location on the High Street, the site is situated in a particularly busy area in terms of pedestrian movement. A total footway width of 3.3 metres is recommended in the Pedestrian Comfort Guidance for London: Guidance Document (Transport for London, 2010) (PCG) for both high street or tourist areas for 'active flow', and for 'high flow' areas, if there is no street furniture. As 'high flow' areas represent the uppermost of the 3 tiers given in the PCG, the lack of pedestrian flow data for the site does not preclude me from assessing the potential impact of the proposals on public safety.
25. The total footway width comfortably exceeds 3.3 metres. The proposals would reduce the available footway width to approximately 5 metres, which is above the recommendations given in the PCG (referred to above), and in terms of pedestrian movement the proposed Street Hub would be adequately set apart from other street furniture on this section of the street.
26. Moreover, as the proposed Street Hub would only be approximately 350mm wide, its reducing effect on the footway would be minimal. A person using the side panel of the proposed Street Hub would cause a further obstruction of the footway, but this would in all likelihood be an intermittent occurrence. Few details have been presented to suggest that the Street Hub would result in queues forming around it.
27. Considering this, whilst the proposals would remove a passing place for pedestrians, and noting that Brent's Transport Team objected to the proposals, on the basis of the evidence before me, I am satisfied that the proposals would not impede pedestrian flows to a degree that would be prejudicial to pedestrian safety.
28. Therefore, in relation to Appeal A, I find that the proposal would have an acceptable effect on public safety. It would comply 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.
29. 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 acceptable 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 comply with this policy.

Lighting levels

30. 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.

31. 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).
32. 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.
33. 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

34. Reference has been made to Jubilee Clock, a Grade II listed structure, although the Council did not indicate that the proposals would affect its setting. The proposed Street Hub would be situated at the other end of this particular section of the High Street and given this distance and the footprint of the proposals I consider that the proposals would not harm the setting or significance of Jubilee Clock. This does not however off-set the harms or the conflict with the development plan identified on the first main issue, above.
35. 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.
36. I have summarised on the first main issue, above, the benefits that the proposals offer to the public and the local community, and reasoned that collectively these benefits should be given moderate weight in support of the proposals.
37. The proposals would give rise to adverse impacts in relation to not preserving or enhancing the character or appearance of the conservation area, 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 this harm.

38. 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 harm identified, nor the conflict with the development plan identified.
39. 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

40. 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