



Appeal Decisions

Site visit made on 17 November 2022

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2023

Appeal A Ref: APP/T5150/W/22/3291148

Pavement O/S Boots & Foxtons, 449-453 High Road, Wembley, London HA9 7AF

- 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 of BT Telecommunications Plc against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/3904, dated 28 September 2021, was refused by notice dated 13 December 2021.
 - The development proposed is described 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/22/3291149

Pavement O/S Boots & Foxtons, 449-453 High Road, Wembley, London HA9 7AF

- 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 of BT Telecommunications Plc against the decision of the Council of the London Borough of Brent.
 - The application Ref 21/3905, dated 28 September 2021, was refused by notice dated 13 December 2021.
 - The advertisement proposed is 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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Decision

1. Appeal A is dismissed.
2. Appeal B 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 provided 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 form 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 A and B. Notwithstanding this, each proposal and appeal has been considered individually, and on its own merits.

Main Issues

5. The main issues with respect to both Appeals A and B are the effect of the proposals on public safety, the effect of the proposed advertisements on amenity, and the effect of the proposed advertisements with particular regard to the luminance level from the proposed LCD advertisement screens on nearby sensitive properties.

Reasons

Public safety

6. The Officer's Reports indicate the proposals would be inappropriate in this location, given that it would affect the free passage of pedestrians. I observed on my visit, mid-morning on a weekday, this section of High Road, is situated in a particularly busy area in terms of pedestrian movement.
7. The area of the footpath in which the Street Hub would be sited is itself not particularly wide. The proposals would remove 2 existing kiosks which currently take up space on the footway. However, the Street Hub would have greater width reducing the amount of space available within the footpath for pedestrians. Therefore, the proposals would result in an obstruction that would unacceptably impede pedestrian movement in this busy commercially orientated area. This effect would be significantly exacerbated if someone were to be standing to the side of the proposed Street Hub whilst using its side panel.
8. Notwithstanding, the harm I have already identified, the Council have also raised concern that the proposals could distract drivers on High Road. I have not been supplied with a copy of Brent's Supplementary Planning Document 8 which is referred to in the Officer report and seeks to avoid obstructing visibility and unduly distracting motorists. Nonetheless, there is no evidence of any road traffic accidents caused by the existing LED signage on this section of High Road and given the position of the structure and modest scale of LCD screens I find it unlikely it would obstruct visibility more than the existing kiosks. Furthermore, conditions on the speed at which advertisements appear and luminance levels could be controlled through conditions. As such I find no harm in this regard.
9. I observed the existing advertisement structures referred to by the Appellant however these are located on wider footway sections or do not include interactive features to be used by the public which would narrow the existing footway. In this regard, existing developments are materially different to the appeal proposals, and therefore I cannot draw any direct comparison that weighs in favour of the proposals.
10. Therefore, in relation to both Appeals A and B, I find that the proposals would have an unacceptable effect on public safety. Appeal A would conflict with Policy SI 6 of the London Plan, which provides, amongst other things, the effective use of public realm to accommodate suitably located mobile digital infrastructure. 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 National Planning Policy Framework (the Framework) which requires priority for pedestrian movement and places are safe and accessible. For the reasons given

above, for Appeal B, the proposed advertisements would conflict with the provisions of the Framework.

Character and appearance/amenity

11. This section of High Road consists of varied coloured shopfronts at ground-floor level, often with prominent fascia signage with residential accommodation above. These uses and the frequent pedestrian and traffic movements associated with them add a vibrancy to the area.
12. In terms of street furniture, there are a modest number of items along this section of High Road. However, most of these are well positioned, in line with each other and towards the outer edge of the pavements, where they least affect views along the pavement. Most of the items are black lamp posts and similar two-sided black LCD advertisement structures. Hence, the area surrounding the site has a consistent appearance to the location of existing street furniture.
13. The appearance of the Street Hub would be taller and wider than the existing kiosks. However, its modern design and dark materials would be in keeping with the colour and design of other street furniture in the area allowing it to integrate well with its surroundings and preventing it from being incongruous with the streetscene. Furthermore, the Street Hub would occupy a smaller footprint than the existing kiosks so would also allow for more open views on this section of the footway and be positioned a sufficient distance away from other similar structures to avoid appearing cluttered.
14. In terms of the proposed advertisements, there are several similar advertisement structures in the area, close to the appeal site. The appeal site is in a vibrant area where the signs of some nearby shops and commercial buildings would also be illuminated in the evening and where the street would be well-lit by regular street lamps. The illuminated advertisements would therefore not appear out of place.
15. Accordingly, in respect of both Appeals A and B, for the reasons above, the proposals would not have a cumulative or incongruous effect within the streetscene and would complement the use and function of the existing space and would not unduly harm the visual amenity of the area. Thus, both appeals A and B would accord with Policies D4 and SI 6 of the London Plan and Policies BD1, BCGA1 and BE4 of the Local Plan. These seek, amongst other things, good design within the public realm. The proposals would also comply with the provisions of the Brent Design Guide SPD which seeks new development to reflect the existing character of an area. In addition, the Appeal B would also comply with the provisions of paragraph 136 of the Framework, in so far, as it is relevant to visual amenity.

Luminance Level- Public safety/amenity

16. 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 (ILP) guidance. No details have been provided to demonstrate the luminance levels would be compliant with the ILP guidance.
17. Nonetheless, the site is within a mixed commercial area where it would be seen with existing illuminated signage, street lighting and similar free-standing advertisements. 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 requiring that the maximum daytime and night-time brightness conforms to the ILP guidance.

18. 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 SI 6 of the London Plan which seeks that, amongst other things, new mobile digital infrastructure is suitably located. In addition, the proposal would also comply with the provisions of paragraph 185 of the Framework, in so far, as it seeks to limit the impact of light pollution from artificial light on local amenity.
19. 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 paragraph 185 of the Framework 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 the provisions of the Framework.

Other Matters

20. I note that the Appellant's evidence provided in actively seeking 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.
21. I acknowledge the public benefits highlighted by the appellant, including ultrafast wi-fi access, direct emergency calls, public information displays, rapid charging, and also the energy efficiency of the Street Hub. I also recognise the economic and social importance of advanced, high quality and reliable telecommunications, and the support in the Framework for the expansion of electronic communications networks. Furthermore, the schemes would remove existing kiosks and this would also help to reduce the anti-social behaviour issues mentioned by the Council's Neighbourhood Manager. I therefore afford the public benefits arising from this development moderate weight. However, replacing the kiosks with the Street Hub, it would give rise to significant harm to public safety, which does not outweigh this harm identified for the reasons set out above.
22. The Council have highlighted highway improvements proposed along High Road to provide a Cycle Future Route from Wembley to Willesden Junction. No details have been provided or an expected time for these works to come forward or how the appeal schemes would likely affect the proposed works. I have therefore given this matter limited weight.

Conclusion

23. 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 both Appeal A and Appeal B should be dismissed.

A Hickey

INSPECTOR