



Appeal Decisions

Site visit made on 31 October 2022

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal 'A' Ref: APP/L5240/W/21/3285196

Outside 1449 London Road, Croydon SW16 4AQ

- 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 Croydon.
 - The application Ref 21/03242/FUL, dated 28 May 2021, was refused by notice dated 26 August 2021.
 - The development proposed is 1no. new BT street hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosk(s).
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Appeal 'B' Ref: APP/L5240/H/21/3285198

Outside 1449 London Road, Croydon SW16 4AQ

- 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 Croydon.
 - The application Ref 21/03243/ADV, dated 28 May 2021, was refused by notice dated 3 September 2021.
 - The advertisements proposed are 2no. digital 75-inch LCD display screens, one on each side of the street hub unit.
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Decisions

Appeal 'A' Ref: APP/L5240/W/21/3285196

1. The appeal is dismissed.

Appeal 'B' Ref: APP/L5240/H/21/3285198

2. The appeal is dismissed.

Procedural matters

3. The two appeals concern the same proposal on the same site. Appeal 'A' concerns the refusal of planning permission to erect a BT street hub. Appeal 'B' concerns the refusal of express consent to display advertisements on the street hub. I have considered each on its individual merits, however, as they raise similar issues, I have combined both decisions into a single decisions letter.
 4. The Advertisements Regulations stipulate that control may be exercised only in the interests of amenity and public safety. In determining the advertisement appeal, the development plan policies are not determinative, but I have taken
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them into account in determining the appeal against the refusal of planning permission.

Main issues

5. The main issues are, in appeal 'A', the effect of the proposed development on:

- the character and appearance of the area, including the surrounding townscape and public realm;
- pedestrian movement;
- highway and crime safety; and,

In appeal 'B', the effect of the proposed advertisements on:

- visual amenity; and,
- highway and crime safety.

Reasons

Character and appearance of the area and visual amenity

6. The site of these appeals is on a section of London Road, enclosed by shops, restaurants, and cafes. Reflecting its designations in the Norbury District Centre as a Secondary Retail Frontage in a Primary Shopping Area the street has a busy commercial character. This section of the street on this side, which the Council has included in a Local Heritage Area, has an attractive array of gables over the projecting bays behind the shopfronts, and an interesting variety in the design and detailing of the buildings which enclose the street.
7. At my site visit it was busy with people moving along and crossing the street, passing into and out of the shops, and sitting in the cafes or on the pavement outside. Its commercial character is characterised by shop advertisements including fascias, projecting signs and window signs.
8. The phone box proposed to be replaced by the BT street hub includes advertisements on its door. Its back wall is covered in fly-posting. The removal of the metal and plastic, dome-topped BT phone box, which would be necessary for the development to be effective, would not harm the townscape of the street or the attractiveness of the public realm.
9. I appreciate that the street hub would be taller and broader than the phone box which it would replace. However, it would be narrower. It would have more slender proportions, a plainer form, more streamlined detailing, and a restrained, dark monotone colour, giving it a more neutral, background character in the street than the more corporately identified phone box. Its size and presence would not appear out of scale with the commercial use and character of this section. It would appear less bulky and less conspicuous than the phone box it would replace.
10. I appreciate the Council's point that the existing advertisements attached to the phone box are not illuminated. However, in terms of appearance, there is a world of difference between paper or vinyl advertisements pasted over the glazed panels of a phone box and its rail and the purposed-designed, well-detailed street hub containing LCD screens. In my view, the street hub,

including its advertisement panels, would improve the visual and townscape qualities of the street scene.

11. Given the already bustling, commercial aspect in this section, and subject to conditions to control their illumination at night, I can see no harm to visual amenity from the size, positions and method of illumination of the advertisements on the street hub.
12. I conclude on this issue that, given the street hub would replace a phone box, and the advertising and condition of that phone box, the proposal would not harm the character and appearance of the area, a Local Heritage Area, including the surrounding townscape and public realm. There would be no harm to visual amenity.
13. There would be no conflict with London Plan 2021 (LP) policies D3, HC1 and D8, nor with Croydon Local Plan 2018 (CLP) policies DM18 and SP4. These seek development that encourages active travel with inclusive pedestrian routes, and require development to ensure that the public realm is attractive and related to the local context, to respond to local distinctiveness, to conserve the significance of heritage assets, and to contribute positively to public realm and townscape.

Pedestrian movement

14. In the middle of a weekday morning I saw at my visit that the street was busy with people shopping or getting on and off buses. On both sides of the street in this section, the footway incorporates a demarcated zone for street-trading in front of the buildings, which has not been indicated on the drawings. Many shops used the zone to display goods. The café alongside the phone box, was popular with customers sitting at tables in the same zone on the footway.
15. The BT street hub would reduce the clear width of the footway between the demarcated trading zone and the kerb. While I saw that the demarcated trading zone immediately beside the proposed hub was unused at the time of my visit, this may not always be the case. More decisively, the proposed street hub would be very close to the street trading zone in front of the café at 1451 London Road, which I saw was popular with customers sitting at tables.
16. I appreciate that the BT street hub would be very slightly further from the café than the phone box it would replace. However, the street hub would be wider. The remaining clear width of footway between the street hub and the trading zone would be insufficient to allow people to pass each other comfortably around the street hub.
17. While the street hub would not prevent people from passing along the footway, it would make movement difficult. The consequence of the reduced clear passage between the hub and the trading zone would be a significant risk of people stepping into the carriageway to pass around the street hub. The siting of the hub would also undermine the effectiveness of the street-trading zone, by creating a risk of collision between people moving along the footway and people, furniture or displays of goods within the trading zone.

18. The proposal would significantly undermine the movement function of the public realm as well as its function as a place. It would diminish very considerably the mutually supportive relationship between the use of the buildings enclosing the street and the space on the footway in front of them, which is important to the vibrancy of the public realm here. It would conflict with LP policy D8, and with CLP policy SP4 which require development to contribute positively to the public realm, to provide for its movement and place functions, and which require consideration to be given to street furniture complementing the use and function of the street space.

Highway safety

19. The street hub would be orientated to face oncoming drivers and sited close to the kerb of the footway, in the drivers' sight lines, which would reduce the risk of drivers turning away from the road to look at the advertisements, in accordance with the guidance¹ of Transport for London. It would be sited sufficiently distant from the pedestrian crossing to avoid advertisements distracting drivers as they approach or move through.
20. Notwithstanding this, for the reasons already given above, because of the reduction in clear width of the footway from this proposal, there is a very significant risk that people may choose to pass the obstruction the street hub would cause on the footway by walking around on its roadside, or by stepping into the road, which on this side is a bus lane. This would place people at risk of being struck by traffic.
21. I conclude on this issue that there would be a very significant risk to highway safety from the proposal, placing it in conflict with LP policy T4 and CLP policy DM29 which protect the safety of people using roads and footways, and with the National Planning Policy Framework² (the Framework) which indicates that development should minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Crime safety

22. I acknowledge the consultation response from the Metropolitan Police describing a severe crime risk in London Road, and their recommending the suspension of the function of free phone calls, free Wi-Fi and free phone charging. However, the Council has not recommended any such condition.
23. In these circumstances, and noting the provisions of the BT Street Hub Anti-social Behaviour Management Plan, which provides for call restrictions, the disabling of the USB port and, alongside its algorithm, the priority assigned to contact from the police, a planning condition could reduce the risk of the BT street hub being used for crime to an acceptable degree.
24. The present condition of the phone box already obscures some views down the street. The additional width and height of the BT street hub would not make a material difference to sight lines in terms of natural surveillance.

¹ Guidance for Digital Roadside Advertising and Proposed Best Practice, 4 March 2013, Transport for London

² National Planning Policy Framework, para 112

25. I conclude on this issue that, subject to a condition to secure the management plan, there would be no unacceptable risk to crime safety from the proposal. There would be no conflict with LP policy D3 which requires measures to design out crime being integral to development proposals and opportunities for anti-social behaviour, criminal activities and terrorism to be reduced. Nor would the proposal run against the Framework which requires in paragraph 92 that decisions aim to achieve safe places and high-quality public space so that crime and the fear of crime do not undermine the quality of life.

Other matters

26. I acknowledge that LP policy D8 requires lighting for advertisements to minimise intrusive infrastructure and reduce light pollution. However, in this proposal the lighting would be in-built. Given the location in a large city with streets lit by streetlights and buildings, I am not convinced that, subject to a condition controlling its illuminance, the proposal would result in a harmful increase in light pollution or disturbance to surrounding occupiers.
27. I have had regard to the risk of harm from the cumulative effect of similar installations in the same area as this proposal. However, on the evidence before me, and from what I saw in the area, I cannot identify any such risk.
28. I note the intention to remove a second phone box, on the corner of Brigstock Road and Chipstead Avenue. There is no objection from the Council to this, and I have no reason to disagree with it. While the disposal of the second phone box may be considered a benefit to the public realm, the clear passage beside that phone box is far greater than this proposal. I can identify no benefits from its removal, which when considered together with the removal of the phone box to be replaced by the proposed street hub, would mitigate or outweigh the harm to the movement and place functions of the public realm and the significant risk to highway safety which would arise from this proposal.
29. I have considered the appeal decisions³ letter referred to by the appellant. However, while I do not have the details of that proposal, which appears to concern a pedestrianised street rather than a strategic road as in this case, I can read that the focus of the highway safety issue was one of distraction. The Inspector also found that there would be an improvement in circulation. Without details of that proposal, including any similarity to the apparatus and siting in this case, it is not possible to draw any parallel.
30. Given the size of the proposed street hub, its alignment at a right angle to and its distance from the shop frontages, there would be no significant risk of it overbearing the shops and cafés. I also note that, as regards electromagnetic fields, the hub has been designed to meet the public exposure guidelines of the International Commission on Non-Ionising Radiation Protection.

Conclusion

31. The proposal would not harm the character and appearance of the Local Heritage Area, including the surrounding townscape and public realm. There

³ Appeal refs: APP/Z4310/W/18/3205104 & App/Z4310/W/18/3205102

would be no harm to visual amenity, and no unacceptable risk to crime safety from the proposal. However, the siting of the proposal would significantly undermine the movement function of the public realm as well as its function as a place. It would introduce a very significant risk to highway safety. And it would be contrary to the development plan when read as a whole.

32. Set against this, the street hub, which would replace two phone boxes, would provide free, ultrafast public and encrypted Wi-Fi, free phone calls, wayfinding, device charging, an emergency 999 call button, public messaging capabilities, and a platform for interactive technologies on the streets such as air quality, noise and traffic monitoring. It would also be powered by renewable energy. However, all the benefits advanced by the appellant do not outweigh the harm to the movement function of the public realm and its function as a place, as well as the very significant risk to highway safety.
33. For the reasons given above, and taking into account all matters raised, the appeals are dismissed.

Patrick Whelan

INSPECTOR