



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/21/3285294

Outside Tesco, 32 Brigstock Road, Croydon CR7 8RX

- 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 21/03246/FUL, dated 1 June 2021, was refused by notice dated 31 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/21/3285296

Outside Tesco, 32 Brigstock Road, Croydon CR7 8RX

- 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 21/03247/ADV, dated 1 June 2021, was refused by notice dated 3 September 2021.
 - The advertisements proposed are 2no. digital 75" LCD display screens, one on each side of the street hub unit.
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Decisions

Appeal 'A' Ref: APP/L5240/W/21/3285294

1. The appeal is allowed and planning permission is granted for 1no. new BT street hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosks, outside Tesco, 32 Brigstock Road, Croydon CR7 8RX, in accordance with the terms of the application, Ref 21/03246/FUL, dated 1 June 2021, and the plans submitted with it, subject to the conditions in the schedule at the end of this decision.

Appeal 'B' Ref: APP/L5240/H/21/3285296

2. The appeal is allowed and express consent is granted for 2no. digital 75" LCD display screens, one on each side of the street hub unit. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions in the schedule at the end of these decisions.
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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 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; and,
 - 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. Reflecting its designations in the Thornton Heath District Centre as a Main Retail Frontage in a Primary Shopping Area the street has a busy commercial character from the shops which enclose it. At the time of my site visit, this section was busy with road traffic, and the footways even busier with people shopping, catching buses, walking to or from the railway station, or going out for leisure, work or returning home.
7. Its commercial character is characterised by shop advertisements including fascias, projecting signs and window signs. The phone boxes proposed to be replaced by the BT street hub include advertisements on their doors, and there is some fly-posting on their other sides. There are two other phone boxes, also displaying advertisements, within a few metres of these. The footway here is broad, but it also holds road signage, a bus stop, trees, lamp columns, a bin and a bollard. Given the already bustling, commercial nature of this section of the street, the proposal would not undermine its character as a place to live in, to work in, or to visit.
8. The removal of the metal and plastic, dome-topped BT phone boxes, one of which is missing its roof, would not harm the townscape of the street or the attractiveness of the public realm. I appreciate that the street hub would be taller and broader than the phone boxes which it is intended 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 boxes. It would appear less bulky and less conspicuous than the phone boxes it would replace.

9. 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, replacing the phone boxes with the street hub, including its advertisement panels, would improve the visual and townscape qualities of the street scene.
10. Noting 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.
11. Given that the two phone boxes would be removed, I conclude on this issue that, subject to conditions, the proposal would not harm the character and appearance of the area, including the surrounding townscape and public realm. There would be no harm to visual amenity. There would be no conflict with London Plan 2021 (LP) policies D3 and D8, nor with Croydon Local Plan 2018 (CLP) policy 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, and to contribute positively to public realm and townscape.

Pedestrian movement

12. The area has a high footfall. The footway is wide beside the phone boxes and even wider where the street hub would stand. Given the amount of clear passage that would remain between the closest building and the street hub in this wide section of the footway, I can see no potential obstruction to the footway.
13. I appreciate that the Council's public realm design guidance¹ suggests that street clutter should be avoided and that only furniture that is either needed or improves the user experience should be added to the public realm. While the street hub would be another item of street furniture, given that it would replace a pair of phone boxes in the same location, and noting the clear width of footway which would remain in this wide section, I can see no conflict with the use of the footway or access to the buildings on this side.
14. There would be no conflict with LP policy D8, nor with CLP policy SP4 which require development to contribute positively to the public realm, to provide for its movement and place functions, and which indicate that applications that introduce unnecessary street furniture should be refused.

¹ Croydon's Public Realm Design Guide 2019, Council of the London Borough of Croydon

Highway safety

15. 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 guidance² of Transport for London.
16. It would be sited sufficiently distant from the pedestrian crossing to avoid advertisements distracting drivers as they approach or move through. It would be sited around 4m further from the traffic direction sign than the phone boxes to be removed. Given this separation, and notwithstanding its greater height and the illumination of the advertisements, the street hub would not distract drivers from reading the sign. The bus stop is sufficient distance behind the position of the proposed street hub that it would not risk distracting drivers approaching to the stop.
17. I conclude on this issue that there would be no material risk to highway safety from the proposal and no conflict with LP policy T4 and CLP policy DM29 which protect the safety of people using roads and footways.

Crime safety

18. I acknowledge the consultation response from the Metropolitan Police describing a severe crime risk in this street, 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.
19. 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 would reduce the risk of the BT street hub being used for crime to an acceptable degree.
20. The phone boxes to be removed already obscure 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.
21. 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 National Planning Policy 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

22. The street hub would be sufficiently distant from the locally listed clock tower and so obliquely sited in relation to it that no significant views would be impeded. Any views of the clock tower in which the street hub might feature are already so characterised by street furniture, highway structures and

² Guidance for Digital Roadside Advertising and Proposed Best Practice, 4 March 2013, Transport for London

signage and advertisements that there would be no diminution of its stature as a townscape feature, no reduction in the legibility of its clock, and no harm to its spatial setting from this proposal.

23. 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. 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.

Conditions

24. I have considered the conditions suggested by the Council against the advice in the Planning Practice Guidance, and amended them where necessary. In appeal 'A, in addition to the statutory time condition [1], a condition [2] listing the approved drawings is needed to ensure clarity on what has been permitted.
25. The appellant's product statement describes the facing materials as powder-coated aluminium and glass, and the renders show the metal in a very dark monotone. There is no necessity for details of facing materials or finishes to be approved. However, in the interests of appearance and visual amenity it is necessary for the specification to be followed, so I have applied condition [3].
26. It is also necessary, in order to reduce the risk of street crime and anti-social behaviour in the outer London borough with the highest crime rate, that a condition be applied to ensure that the street hub is effectively managed. I have therefore applied a condition [4] for its management to be in accordance with the BT Street Hub Anti-social Behaviour Management Plan April 2021.
27. The street hub could be erected without the phone boxes being removed. This would make this section overly commercial by the concentration of advertisements in the public realm, and by the disordered siting of street furniture creating a pinch-point between the phone boxes and the street hub. The combined effect of the existing phone boxes and the BT street hub would also form a surveillance blind-spot in an area of severe crime risk. A condition to ensure the phone boxes are removed would overcome these effects.
28. I appreciate that these may not be on land in the control of the appellant. However, there is no objection from the Council or the relevant highways authority to their removal. In these circumstances, and given the status of the appellant as a statutory undertaker, I am assured that there would be no unacceptable uncertainty and that there would be every prospect of their removal.
29. I acknowledge the appellant's suggested condition in this respect which sought the removal of the phone boxes within three months of the development commencing. However, this would permit the phone boxes and street hub to be in place for three months. Given the risks identified, the street hub should

not be erected until the phone boxes have been removed. I have therefore applied a condition [5] which would secure this, while allowing any groundworks to be completed in advance of erection.

30. In appeal 'B', to prevent visual intrusion and distraction to road users, it is necessary to apply a condition [1] to control the illuminance of the advertisements so that they do not stand out significantly from the background illumination in the street, during darkness. The proposal is for the advertisements to have internal illumination of 2,500cd/m². It is unclear how the Council has determined that the level should be no greater than 300cd/m². However, the lighting guidance³ suggests that in urban areas, such as this, the maximum level could be up to 600cd/m². Given the location of the proposal, the commercial and lit character of the street, the visual contrast of the surroundings, and the size of the street hub's screens, I consider that 600cd/m² is a reasonable upper limit.
31. To avoid the risk of distraction to drivers, it is also necessary for conditions to avoid, special effects, moving or sequenced images, to ensure a minimum display time [2], and to reduce the rate of change of images to instantaneous [3].

Conclusion

32. For the reasons given above, and taking into account all matters raised, the appeals are allowed.

Patrick Whelan

INSPECTOR

³ Professional Lighting Guide 05, The Brightness Of Illuminated Advertisements, 2015, Institution of Lighting Professionals

SCHEDULES OF CONDITIONS

Appeal 'A' Ref: APP/L5240/W/21/3285294

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1A SITE LOCATION MAPS; 2A PROPOSED SITE PLAN; 3A EXISTING AND PROPOSED ELEVATIONS.
- 3) The external surfaces of the development shall be constructed using the materials, finishes, and colours as described in the BT Street Hubs Product Statement v1.0 February 2021 and as shown on the BT Street Hub Proposal Renders 2021.
- 4) The BT street hub, including its electronic features, shall be managed in accordance with the BT Street Hub Anti-Social Behaviour Management Plan, April 2021, for the lifetime of the development.
- 5) Before the BT street hub hereby approved is erected, the two phone boxes indicated for removal, as shown on drawing 2A PROPOSED SITE PLAN, shall be removed and the street surface made good to match the adjoining footway surface materials.

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In addition to the five standard conditions in the Regulations:

- 1) The intensity of the illumination of the advertisements permitted by this consent shall be no greater than 600 cd/m² between dusk and dawn, consistent with guidance set out in the Institute of Lighting Professionals (ILP) publication: "The Brightness of Illuminated Advertisements" (PLG05, January 2015).
- 2) The minimum display time for each advertisement shall be 10 seconds. There shall be no special effects that include noise, smell, flashing, or smoke. Full-motion video is not permitted.
- 3) The interval between successive displays shall be instantaneous and the complete display screen shall change without visual effects (including fading, swiping or other animated transition methods) between each advertisement.

END OF SCHEDULES OF CONDITIONS