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## Appeal Decisions

Site visit made on 31 October 2022

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**an Inspector appointed by the Secretary of State**

**Decision date: 23 January 2023**

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### **Appeal 'A' Ref: APP/L5240/W/21/3285103**

#### **Outside Barclays Bank, 1434 London Road, Norbury SW16 4BX**

- 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 21/03240/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/21/3285104**

#### **Outside Barclays Bank, 1434 London Road, Norbury SW16 4BX**

- 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 21/03241/ADV, dated 28 May 2021, was refused by notice dated 3 September 2021.
  - The advertisements proposed are two 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/21/3285103*

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 Barclays Bank, 1434 London Road, Norbury SW16 4BX, in accordance with the terms of the application, Ref 21/03240/FUL, dated 28 May 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/21/3285104*

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.

## **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
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'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;
  - the setting of the grade II listed building whose statutory address is Barclays Bank, 1434 London Road;
  - 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 Norbury District Centre as a Main Retail Frontage in a Primary Shopping Area the street has a busy commercial character. People step in and out of the shops and restaurants, catch buses, and pass along the footways or sit at tables in front of the cafés. The animation of these activities gives the street an attractive, commercial character. Given the already bustling, commercial aspect in this section, the proposal would not undermine its appealing character as a place to live in, to work in, or to visit.
7. This section of the street, which the Council has designated as a Local Heritage Area, has a pleasing and interesting variety in the detailing and materials of the buildings which enclose it. The attractive terrace of the block beside this proposal lifts the status of the street with its elegant array of gables and the ordered symmetry of its openings, particularly the closest section, which includes modulating brick piers, and which the Council recognises as locally listed buildings.
8. The telephone box on this side of the street is a metal and plastic, dome-topped BT model. Its design and materials give it more of a corporate, universal identity than lending it any affinity with the distinctive townscape of the buildings which surround it.

9. Moreover, two of its enclosing sides are covered in advertising or fly-posters. The phone box has a neglected appearance. It detracts from the attractive appearance of the street in this section. Its removal, 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.
10. The street hub which would replace it would be taller and broader. However, it would be narrower. It would have more slender proportions, a plainer form, slicker detailing, and a restrained, dark monotone colour, giving it a more neutral, background character in the street. It would appear less bulky and less conspicuous than the phone box it would replace. Alongside the bicycle stands, the electronic cabinets, and the thick CCTV camera column in this section, it would not appear out of place in the public realm.
11. 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 rails 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.
12. This section of the street is characterised by the shops and restaurants which advertise themselves with fascia signs, projecting signs, and awnings. In this context, 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.
13. I conclude on this issue that, given the condition and siting of the phone box, which would be removed, the proposal would not harm the character and appearance of the area, a Local Heritage Area, including the locally listed buildings nearby, and the surrounding townscape and public realm. There would be no harm to visual amenity.
14. 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 their settings, and to contribute positively to public realm and townscape.

*The setting of the listed building*

15. The Venetian influenced, late C19 building on the corner of this street block, and which stands directly opposite the phone box, is a listed building. It transforms this street corner by evoking the architecture of foreign shores and earlier times. The arrangement of its openings and its formal frontages lend it a civic character which animates the street. Its extravagant ornamentation, the warmth of its terracotta, the elegance of its detailing, and the modelling of its distinctive layering marks it out as a beautiful building.

16. In terms of townscape, the architectural richness of this building brings delight to the street. Despite its distinctive, architectural singular quality, the similarity of its height, its roofscape, the scale and arrangement of its openings and the intricacy of its detailing unifies it with the other buildings in this street block. No information has been provided on its significance. Nonetheless, it is clear that the special interest in its design alone has very considerable architectural and historic significance.
17. The boxy, dome-topped form, colours, materials and corporate identity of the phone box contribute nothing to the street setting of the listed building. Its rather forlorn appearance with fly-posters, especially when viewed alongside the fly-posters on the electronic cabinet nearby, detract from the setting of the building. Despite its greater height and width, the narrower profile, the more neutral finishes and tone and the more confined bespoke area for advertisements of the street hub would make it a more sensitive element in the setting of the building than the phone box, which would be removed.
18. The setting of the listed building would therefore be preserved in accordance with LP policy HC1 and CLP policy DM18, the expectations of the Act, and the objectives of the Framework, which recognise the potential for harm to the significance of a designated heritage asset from development within its setting and which require the conservation of its significance.

#### *Pedestrian movement*

19. The BT street hub would reduce the clear width of footway over the present condition with the phone box. However, the reduction would be very marginal. The slimmer width of the street hub, compared to the phone box which would be removed, would allow easier movement when crossing the street across the footway. As the building in front of which the street hub would stand has its entrance on the street corner, sufficient clear width would remain to allow people to pass comfortably. In this particular context, where a post box stands a similar distance into the footway, and where street-lamp columns and bicycle stands already occupy the same zone, I can see no potential obstruction to the footway.
20. I appreciate that the Council's guidance<sup>1</sup> 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 phone box in the same location, and noting the clear width of footway which would remain in this widened section, I can see no conflict with the use of the footway or access to the buildings on this side.
21. 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.

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<sup>1</sup> Croydon's Public Realm Design Guide 2019, Council of the London Borough of Croydon

### *Highway safety*

22. 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 guidance<sup>2</sup> of Transport for London. It would be sited sufficiently distant from the pedestrian crossing to avoid advertisements distracting drivers as they approach or pass through.
23. There is no substantive evidence, and nothing that I could see on-site, to suggest that there would be any conflict with signage, nor that the road geometry and layout is so complicated, nor that driving conditions are so demanding, that the proposal would present an unacceptable highway safety risk.
24. 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*

25. 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.
26. 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.
27. 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.
28. 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**

29. 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

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

condition controlling its illuminance, the proposal would result in a harmful increase in light pollution or disturbance to surrounding occupiers.

30. 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
31. I note the intention to remove a second phone box, on the corner of London Road and Warwick Road. 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, given my conclusions above on the first phone box, the removal of this has not been a decisive factor in weighing the balance of this proposal.

### **Conditions**

32. 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.
33. 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].
34. 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.
35. 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/m<sup>2</sup>. It is unclear how the Council has determined that the level should be no greater than 300cd/m<sup>2</sup>. However, the lighting guidance<sup>3</sup> suggests that in urban areas, such as this, the maximum level could be up to 600cd/m<sup>2</sup>. 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/m<sup>2</sup> is a reasonable upper limit.
36. To avoid the risk of distraction to drivers, it is also necessary for conditions to avoid, special effects, moving or sequenced images [2], to ensure a minimum display time [2], and to reduce the rate of change of images to instantaneous [3].

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<sup>3</sup> Professional Lighting Guide 05, The Brightness Of Illuminated Advertisements, 2015, Institution of Lighting Professionals

**Conclusion**

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

*Patrick Whelan*

INSPECTOR

## SCHEDULES OF CONDITIONS

### **Appeal 'A'** Ref: APP/L5240/W/21/3285103

- 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.

### **Appeal 'B'** Ref: APP/L5240/H/21/3285104

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/m<sup>2</sup> 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