
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/21/3287208

Outside Holland & Barrett, 956 Brighton Road, Purley, Croydon CR8 2LP

- 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 21/03250/FUL, dated 28 May 2021, was refused by notice dated 22 October 2021.
 - The development proposed is the installation of 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/21/3287209

Outside Holland & Barrett, 956 Brighton Road, Purley, Croydon CR8 2LP

- 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 21/03251/ADV, dated 28 May 2021, was refused by notice dated 22 October 2021.
 - The advertisement proposed is 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/21/3287208

1. The appeal is dismissed.

Appeal 'B' Ref: APP/L5240/H/21/3287209

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
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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;
 - 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 busy section of Brighton Road in a District Centre, enclosed by terraces of buildings with a rich variety in their townscape and detailing, ranging from an imposing, faux, timber-framed mansion block with shops on the ground floor to more humbly scaled and detailed terraces of flats above shops. The street lies in a Local Heritage Area.
7. Street furniture is relatively scarce, being predominantly lamp columns, bicycle stands, bins, and sign-posts. There are also two bus-stop shelters and two phone kiosks further along the street. Part of its commercial character includes advertisements including shop fascias, projecting signs and window signs, bus shelters and phone boxes with adverts.
8. Given how generally uncluttered the footways are, and taking account of the scale and nature of the street furniture which does stand in the footway, the proposed street hub, because of its height and its width in relation to the scale of the frontages and the profile of the street on this side, would be visually intrusive. It would disrupt the spatial balance between the footway and the enclosing buildings, to the detriment of the street scene.
9. Part of the character of the street is the commercial nature of shop advertisements including fascias, projecting signs, awnings, and window display. However, the existing advertisements in this section of the street are generally confined to the buildings or to the bus shelter's or phone kiosk's enclosing walls rather than being freestanding in the footway. The incompatible, prominent siting of the advertisements in this proposal, made more conspicuous by their illumination, would undermine the attractive townscape and spatial order in the appearance of the street which is part of what makes it distinctive.
10. I conclude on this issue that the proposal would harm the appearance and visual amenity of the area. It would conflict with Croydon Local Plan 2018

(CLP) policy SP4 which requires development to contribute positively to the public realm, landscape and townscape.

11. It would also conflict with London Plan 2021 (LP) policies D3 and D8 which require development to enhance local context by delivering spaces that positively respond to local distinctiveness through layout, scale, and appearance; to ensure that the public realm is well-designed, attractive, and related to the local context; that the function of the public realm as a place is provided for; that consideration should be given to the location of street furniture to complement the use and function of the space; and that applications which seek to introduce unnecessary street furniture should be refused.

Pedestrian movement

12. In the middle of a weekday morning I saw at my visit that the street was busy with people moving along the footway, passing into or out of the shops, or crossing the road. The street has been designated as a Secondary Retail Frontage in a Primary Shopping Area. Given this status of the street, the intensity of the activity in this section, and the generally narrow shop frontages, each with an entrance from the footway, the reduction of clear width of the footway beside the street hub would have an obstructive effect on the footway. It would compromise the ability for people to pass each other comfortably around it. While the siting of the street hub would not prevent people from passing along the footway, it would make movement difficult, with people having to pause, give way or wait in order to pass around the street hub. Simply, it would get in the way.
13. The proposal would diminish the successful movement function of the public realm in this street, and it would undermine the street's 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, where people can pass relatively unhindered by street furniture. 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

14. The street hub would be orientated to face oncoming drivers and sited close to the kerb of the footway, in the drivers' eye 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 bus-stops and the pedestrian crossing to avoid advertisements distracting drivers as they approach or move through.

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

15. 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.
16. 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

17. I acknowledge the consultation response from the Metropolitan Police remarking that Croydon has the highest crime rate of all outer London boroughs. 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.
18. 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

19. I have taken into account the two phone boxes which would be removed as part of this proposal. However, the phone box beside 14 Brighton Road is in a more residential area with far greater footway space in front of it and no shops beside it. The phone box in the High Street seems to stand in an area of less footfall and beside it is a single, large shop rather than the more numerous, smaller shops with consequently more entrances, as in this proposal. I can identify no benefits from their removal, which would mitigate or outweigh the harm to the appearance and visual amenity of the area, and the pedestrian movement and place functions of the public realm which would arise from this proposal.
20. I have considered the appeal decisions² referred to by the appellant. However, while I do not have the details of that proposal, I can read that the environment surrounding it is not comparable to the circumstances in this case. Without details of that proposal, including any similarity to the apparatus, surroundings, and siting in this case, it is not possible to draw any parallels.

² Appeal refs: APP/Z4310/W/18/3205104 & App/Z4310/W/18/3205102

21. I have noted the Council's 2017 prior approval³ of a phone kiosk outside 948 Brighton Road. However, an application for prior approval is not the same as an application for planning permission. I have considered the planning application in this case with regard to the development plan, which includes the London Plan 2021, as well as material considerations. Moreover, it is unclear whether any advertisement applications accompanied that proposal and whether they were granted.

Conclusion

22. There would be no material risk to highway safety, and no unacceptable risk to crime safety from the proposal. However, it would harm the appearance and visual amenity of the area and it would diminish the successful movement function of the public realm in this street, undermining the street's function as a place. It would be contrary to the development plan when read as a whole.
23. Set against this, the street hub 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 identified by the appellant would not outweigh the harm to the appearance and visual amenity of the area.
24. For the reasons given above, and taking into account all matters raised, the appeals are dismissed.

Patrick Whelan

INSPECTOR

³ LPA ref: 17/00955/PA8