



Appeal Decisions

Site visit made on 22 November 2022

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an Inspector appointed by the Secretary of State

Decision date: 3 May 2023

Appeal 'A' Ref: APP/L5240/W/21/3284993

Pavement o/s Marks and Spencer, 114-120 North End, Croydon CR9 1SH

- 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 21/03214/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/21/3284994

Pavement o/s Marks and Spencer, 114-120 North End, Croydon CR9 1SH

- 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 21/03215/ADV, dated 28 May 2021, was refused by notice dated 31 August 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/21/3285096

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, on the pavement outside Marks and Spencer, 114-120 North End, Croydon CR9 1SH, in accordance with the terms of the application, Ref 21/03214/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/21/3285097

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 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 Central Croydon Conservation Area and the protected view of the Town Hall clock tower;
 - pedestrian movement; and,
 - crime safety;and, in appeal 'B', the effect of the proposed advertisements on:
 - visual amenity; and,
 - crime safety.

Reasons

The significance of the Central Croydon Conservation Area (CA)

6. The CA is characterised by the different layers of C19+ commercial development which has developed on the medieval street pattern, dispersed between older buildings and making a striking architectural amalgamation. Many buildings have been locally listed. Above the ground floor shop fronts, the unusual juxtapositions of buildings from different eras are, in places, as attractive as the eclecticism of their very different stylistic influences.
7. The different eras of development of these buildings also mark the historical and social development of Croydon. For instance, the humble, restored, C16 almshouses demonstrating the charitable conscience and altruism of its founder which stand next to the palatial front of the C20 Alders department store, reminiscent of a time when the size of its department stores could determine the status of a town.
8. North End has been pedestrianised and the street levelled. Without the isolation of the road, the space between the buildings enclosing the street has become more prominent. As well as holding phone boxes, bins, and bike stands, the street has been filled with trees and benches, arranged to make the street an attractive space where people feel comfortable to pause or linger between shopping. As the foreground to the buildings in the CA and as the stage set of the public realm, the street, as a space, has a pivotal place in the CA.

The effect on the CA, visual amenity, and the protected view

9. As part of the retail heart of Croydon and enclosed by shops on both sides, this section of the street in the Primary Shopping Area has a commercial character from the numerous shops and their advertisements including fascias, projecting signs and window signs.
10. The pedestrianised area is not devoid of signage or advertising. I saw signs or advertisements on free-standing advert boards, phone boxes, bins, way-finding totems, and lamp columns. Though the number of these is limited, not illuminated, and in balance with their surroundings, they nonetheless feature in the street scene, and are part of the character of the public realm.
11. The removal of the metal and plastic, dome-topped BT phone boxes, 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.
12. I acknowledge that the street hub would be taller than the phone boxes 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 boxes. It would appear less bulky and less conspicuous than the phone boxes it would replace.
13. I recognise that the existing advertisements attached to the phone boxes 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. Further, many of the surfaces of the phone boxes are covered in fly posters. In my view, the street hub, including its advertisement panels, would improve the visual and townscape qualities of the street scene.
14. Moreover, I noticed LCD screens in some of the shops on this street. I appreciate that some of these screens are set back slightly within the shops rather than being free-standing in the middle of the street. However, powered display screens are not a new or uncharacteristic feature in the street.
15. 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.
16. The view to the Town Hall clock tower from North End has been designated a local view which policy SP4 of the Croydon Local Plan 2018 (CLP) protects. This site is several hundred metres from the clock tower. Given the buildings and trees standing between this site and the clock tower, I was unable to see it. Without substantive evidence of impact, I cannot see how the proposal would be intrusive or distracting in distant views of the clock tower, compared to the present condition. Even if the clock tower were visible to some very limited degree, given the prominence of the foreground buildings here, there is

nothing in the form, colour or silhouette of the clock tower that would be lost in these very distant views because of this proposal.

17. I have had regard to the risk of harm from the cumulative effect of similar installations in North End, including determined and pending appeals for this type of street hub as well as for a different kind of hub. However, given the substantial spacing between the street hubs, their siting generally within the central zone of the street, as well as their distance from other advertisements and signs, I can identify no such risk.
18. I conclude on this issue that, given the condition, siting, and prominence of the phone boxes which the proposal would replace, there would be no harm to the character or the appearance of the CA, to the desirability of which preservation the Act requires special attention to be paid. There would be no harm to visual amenity, nor to the local view.
19. There would be no conflict with London Plan 2021 (LP) policies HC1, D3 and D8, nor with Croydon Local Plan 2018 (CLP) policies DM18 and SP4. These seek development that conserves the significance of heritage assets by being sympathetic to the assets' significance and appreciation within their surroundings; encourage active travel with convenient and 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

20. Positioned between two bench seats, and being less broad than the phone boxes it would replace, the street hub could not hinder the passage of people moving along the length of the street.
21. However, it would stand closer to the more southerly bench than the present phone boxes. The resultant gap on the south side would be too narrow to let people, especially those with small children or pushing prams, or those using scooters or wheelchairs or pulling shopping trolleys, to pass comfortably between the bench and the hub, especially when the bench is occupied. At the same time, the gap would be too wide to deter people from trying to pass through it. When the height of the street hub is taken into account alongside this constricting siting, the effect would be to make the bench redundant and the space between it and the street hub a no-go zone.
22. While its siting would not stop people from passing between the bench and the street hub, it would compromise the ability for people to pass comfortably across the street. Given that the street is in the Primary Shopping Area of the Metropolitan Centre, and having seen the intensity of the activity in this pedestrianised section, the obstructive effect of the hub's proposed siting would diminish the successful movement function of the public realm in this street. It would undermine the street's function as a place.
23. Notwithstanding this were the street hub to be sited more centrally between the two benches and within the footprint of the phone boxes for removal, then the obstructive effect would be negated. The appellant has accepted a siting

condition which would secure this. On this basis, I find the siting acceptable in movement terms.

24. I appreciate that the Council's guidance¹ suggests that street clutter should be avoided and that only furniture that is either needed or which 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 two phone boxes in the same location, I can see no conflict with the use of the street or access to the buildings.
25. Subject to the condition, there would be no conflict with LP policy D8, nor with CLP policy SP4 which requires 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.

Crime safety

26. I acknowledge the consultation response from the Metropolitan Police describing a severe crime risk in North End, 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.
27. 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.
28. The present condition of the phone boxes already obscures some views down the street. The additional height of the BT street hub would not make a material difference to sight lines in terms of natural surveillance.
29. 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 development to achieve safe and secure environments and the sub-text of which describes how measures to design out crime should be integral to development and how the opportunities for anti-social behaviour, criminal activities and terrorism should 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

30. 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

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

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

31. I have had regard to consistency in decision-making and the dismissed appeals² for the replacement of an existing telephone kiosk with a multifunction hub outside McDonald's, 86 North End, as well as pending appeals for multifunction hubs elsewhere in this street. However, while the hubs in those appeals are shorter than the hub in this proposal, they are also broader and substantially deeper, overall. Moreover, the advertising screen in those appeals, albeit apparently limited to one face rather than two as in this proposal, is larger than the screens in this proposal.
32. These distinctions between the different types of hubs are significant in considering their effect on the CA and amenity. I am unable to draw any material parallel from them to the proposal in this appeal which directs me to dismiss it.

Conditions

33. 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.
34. As discussed above an alternative siting is necessary, so I have applied a condition [3] for the approval of an amended site plan. To be effective it needs to bite before the street hub is erected. This would allow demolition and groundwork to complete without constraining any programme.
35. 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, the specification must be followed, so I have applied a condition [4] to secure this.
36. It is also necessary, to reduce the risk of street crime and anti-social behaviour in the outer London borough with the highest crime rate and in this area identified by the police as having a severe crime risk, that a condition is applied to ensure that the street hub is effectively managed. I have therefore applied a condition [5] for its management to be in accordance with the BT Street Hub Anti-social Behaviour Management Plan April 2021.
37. Depending on the outcome of the re-siting to be agreed by the Council under condition 3, the street hub could be erected without the phone boxes being removed. This would harm the CA from the proliferation of advertisements in the public realm as well as impeding movement. A precautionary condition to ensure the phone boxes are removed would overcome this risk. I have therefore applied a condition [6] to secure this while allowing any groundworks to be completed in advance of erection.

² Appeal Refs: APP/L5240/W/21/3286635 & APP/L5240/H/21/3286637

38. 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 lumination 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.
39. 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].

Conclusion

40. 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, Institution of Lighting Professionals

SCHEDULES OF CONDITIONS

Appeal 'A' Ref: APP/L5240/W/21/3284993

- 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) Notwithstanding condition 2, before the erection of the BT street hub, an amended site plan showing the BT street hub located more equally between the two bench seats beside it and, in any event, within the footprint of the two phone boxes to be removed, shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved, amended site plan.
- 4) Notwithstanding condition 2, 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.
- 5) 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.
- 6) 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.

Appeal 'B' Ref: APP/L5240/H/21/3284994

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 2013).
- 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