



Appeal Decisions

Site visit made on 22 November 2022

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

an Inspector appointed by the Secretary of State

Decision date: 3 May 2023

Appeal 'A' Ref: APP/L5240/W/21/3286985

Pavement outside Primark, 5-9 North End, Croydon CR9 1SX

- 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 21/03220/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).
-

Appeal 'B' Ref: APP/L5240/H/21/3286987

Pavement outside Primark, 5-9 North End, Croydon CR9 1SX

- 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 21/03221/ADV, dated 28 May 2021, was refused by notice dated 5 October 2021.
 - The advertisements proposed are 2no. digital 75" LCD display screens, one on each side of the street hub unit.
-

Decisions

Appeal 'A' Ref: APP/L5240/W/21/3286985

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 Primark, 5-9 North End, Croydon CR9 1SX, in accordance with the terms of the application, Ref 21/03220/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/21/3286987

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 '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 setting of the Central Croydon Conservation Area (CA);
 - the protected view of the Town Hall clock tower;
 - the setting of the grade 1 listed building whose statutory address is the Hospital of the Holy Trinity (Whitgift Hospital) North End;
 - 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 are locally listed buildings. 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. The different buildings also mark out 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 Allders department store, reminiscent of a time when the size of its department stores could determine the status of a town.
7. 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 of the buildings in the CA and as the stage of the public realm, the street, as a space, has a pivotal place in the CA.

Character and appearance, the setting of the CA, and visual amenity

8. Being in the main retail frontage of a Primary Shopping Area in the Croydon Metropolitan Centre and enclosed by shops on both sides, this section of the street has a commercial character from the numerous shop advertisements including fascias, projecting signs and window signs.
9. 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.
10. 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.
11. I acknowledge that the street hub would be taller than the phone boxes which it would replace. However, it would be narrower and less broad. 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.
12. 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, some of the surfaces of the phone boxes are covered in fly posters. These, together with the advertisements on other panels of the phone boxes, diminish their visual permeability.
13. Given the busy, commercial nature of this section of the street, the proposal would not undermine its character as a place to live in, work in, or visit. In my view, the street hub which would replace the phone boxes, including its advertisement panels, would improve the visual and townscape qualities of the street scene.
14. There are several LCD screens in the shops in the vicinity. 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 new or uncharacteristic elements in this street. 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.
15. I have had regard to the risk of harm from the cumulative effect of similar installations in North End, including pending appeals for this type of street hub as well as determined and pending appeals 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.

16. The Council considered the site to be within the CA and the appellant considered it to be outside. From what I can see, the site of the proposal lies a few metres outside the boundary of the CA, but still within its setting. I have considered it on that basis.
17. While the statutory test may only apply a few metres to the east of this spot, the National Planning Policy Framework (the Framework) recognises that the significance of a CA can be harmed by development within its setting, and it requires that when considering the impact of a development on the significance of a designated heritage asset, that great weight should be given to its conservation.
18. Notwithstanding this, given the condition, siting, and prominence of the phone boxes which the proposal would replace, there would be no harm to the character or appearance of the area, including the significance of the CA, from development in its setting. Nor would there be any harm to visual amenity. Even were the proposal considered to have fallen within the CA, for the same reasons above, there would be no harm to the character or appearance of the CA, to the desirability of which preservation the Act requires special attention to be paid.
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 require development affecting the settings of heritage assets to conserve their significance; 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.

The effect on the protected view of the Town Hall clock tower

20. 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. The appellant considers that the site is outside the corridor of the protected view.
21. Whether these phone boxes are inside or outside the corridor indicated on a map, they are relatively near the clock tower. From a position almost immediately beside the existing phone boxes I saw that the view of the upper part of the clock tower is already blocked by them. However, across the remainder of the width of the street, the view is not reduced by the boxes.
22. From what I could see on-site, the additional height of the street hub over the phone boxes, given its proposed position on the clock tower side of the present site of the boxes, and noting its lesser width and depth, would have only a very marginal impact on any view of the clock tower, if any at all.
23. Given the other furniture in the street, and the height of the buildings which enclose the street, on this side of the clock tower, the street hub would not be intrusive or distracting in close or distant views of the clock tower. I can find

no material harm to views of the Town Hall clock tower from the proposal, and no conflict with CLP policy SP4 which protects local, designated views.

The effect on the setting of the grade I listed building

24. As a restored C16 hospital the building has substantial, special, historic interest in its function, its spatial and architectural arrangement, and its characteristic detailing and use of materials. Its architectural significance includes the size of the building, its enclosure, and, on the elevation to North End, the expression of security and habitation from its protective form and walls, as well as the scale and treatment of the openings, including the gatehouse, within them.
25. It is to this architectural and spatial significance that the setting here contributes by providing a relatively uncluttered, calm space in which those features may resound.
26. While the street hub would be within the setting of the listed building it would be displaced to the north of it, rather than being in front of it. The distance of the street hub from the listed building would give it a substantial degree of visual separation. Its relatively small scale in the street scene would diminish its influence on the setting. Given its siting in the central zone of the street, where street furniture and trees are located, it would appear to belong to the street more than it would appear an isolated element in potential opposition to the bearing of the listed building on the street.
27. I appreciate that the street hub, being modern, powered, and illuminated would have a quite different character to the architectural character of the listed building. However, so too do the adjoining and neighbouring buildings which also form part of its evolved setting, and in which wider context this proposal would belong. Given the condition, size and siting of the present phone boxes, which would be removed, and the commercial, illuminated buildings in the same setting, the proposed hub and its illumination would be sensitive to the listed building and would not undermine the spatial or visual quality of its setting.
28. The setting of the listed building, to the desirability of the preservation of which the Act requires that special regard be had, would be preserved. There would be no conflict with LP policy HC1 and CLP policies DM18 and SP4 which require development proposals affecting heritage assets, and their settings, to conserve their significance by being sympathetic to the asset's significance and appreciation within their surroundings.

Pedestrian movement

29. The street hub would stand further from a nearby, mature tree, than the existing phone boxes, thereby easing movement across the street. It would be sufficiently distant from the closest bench not to undermine its function or appeal.
30. I appreciate that the Council's guidance¹ suggests that street clutter should be avoided and that only furniture that is either needed or improves the user

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

experience should be added to the public realm. While the street hub would be another item of street furniture, it would be sited in a zone where benches, bike stands, bins and trees are already features. In this position, and given that it would replace two phone boxes in the same location, and noting the improved area of free passage around it, I can see no conflict with people using the street, or the integrity of its public realm.

31. 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.

Crime safety

32. 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.
33. 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.
34. 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.
35. 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.
36. 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

37. I acknowledge that London Plan 2021 (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.
38. I have had regard to consistency in decision-making and the dismissed appeals² for the replacement of an existing telephone kiosk with a multifunction

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

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 limited to one face rather than two as in this proposal, is larger than the screens in this proposal. These distinctions between the different types of hubs are significant in considerations of the effect on the CA and amenity. I cannot draw any parallels to the proposal in this appeal which direct me to dismiss it.

Conditions

39. 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.
40. 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 [3] to secure this.
41. 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 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 [4] for its management to be in accordance with the BT Street Hub Anti-social Behaviour Management Plan April 2021.
42. 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.
43. 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].

³ Professional Lighting Guide 05, The Brightness Of Illuminated Advertisements, 2013, Institution of Lighting Professionals

Conclusion

44. 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/21/3286985

- 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/21/3286987

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, 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