



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/21/3287444

Outside Greggs, 13 Norfolk House, Wellesley Road, Croydon CR0 1LH

- 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 21/03230/FUL, dated 28 May 2021, was refused by notice dated 22 October 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/21/3287445

Outside Greggs, 13 Norfolk House, Wellesley Road, Croydon CR0 1LH

- 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 21/03231/ADV, dated 28 May 2021, was refused by notice dated 22 October 2021.
 - The advertisements proposed are 2no. digital 75-inch LCD display screens, one on each side of the street hub unit.
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Decisions

Appeal 'A' Ref: APP/L5240/W/21/3287444

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 Greggs, 13 Norfolk House, Wellesley Road, Croydon CR0 1LH, in accordance with the terms of the application, Ref 21/03230/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/21/3287445

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 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. Norfolk House has a clean, modernist aesthetic, reflecting the tower blocks which rise dramatically above the street and which characterise this section. Its ground floor frontage is activated by shops or accesses to the accommodation above. Given the commercial nature of this section of the street, which includes shop fascias, projecting signs, and window displays, and its location in an illuminated street in secondary retail frontage of a primary shopping area in the metropolitan centre of Croydon, the size of the advertisements and the method of their illumination would not undermine its character as a place to live in, work in, or to visit.
7. The footway is broad. It is also, save for the columns supporting overhead tram wires, largely free of street furniture. This uncluttered public realm tends to visually restrain the commercial character of the frontages of the ground floor units, retaining a spatial balance between the height of Norfolk House and its street setting.
8. The introduction of such a large piece of street furniture as the street hub would be intrusive in that spatial relationship. It would undermine the attractive spaciousness of this footway, and the relationship between Norfolk House and the street. The harm from this spatial impact, in the context of the character of the whole street, would be limited. It nonetheless counts against the proposal.

9. Notwithstanding this, the proposal includes the removal of two phone boxes, which contain advertisements, and which stand directly in front of a grade II listed building whose statutory address 2 is the Electricity Showrooms and Offices, Wellesley Road, on the opposite side of the street from this proposal.
10. This is an elegant, prestigious, modernist building clad in Portland stone, and on whose marble plinth beside the phone boxes for removal is the inscription 'Electricity Department of the County Borough of Croydon'. Little 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.
11. Against the white of its stone wall and its bronze fenestration the red, plastic and aluminium phone boxes appear conspicuously incongruous. They detract from the architectural order in the façade of the building behind them, which here, is set-back, and is plain, offering a relieved connection to the neighbouring building. Their proximity to the façade of the listed building, almost attaching to it, exacerbates their architectural incompatibility. The phone boxes undermine the architectural legibility of the building, disrupt its spatial setting, and they undermine its distinctive contribution to the public realm. Given the integrity of the listed building and its prominence in the street scene, they detract from its setting, to the consideration of the preservation of which the Act requires that special regard must be had.
12. The National Planning Policy Framework recognises that development within the setting of a designated heritage asset can harm its significance and it stipulates that in determining applications account should be taken of the desirability of sustaining and enhancing the significance of heritage assets. In my view, the relief from the present harm to the setting of the listed building from the phone boxes' disposal and the resulting enhancement of its significance would outweigh the spatial impact on the character of the street from the street hub, as identified above.
13. I have had regard to the risk of harm from the cumulative effect of similar installations in the area, including in George Street. However, given the substantial spacing between the street hubs, as well as their distance from other advertisements and signs, I can identify no such risk.
14. Subject strictly to the removal of the phone boxes beside the listed building, I conclude that, on balance, there would be no harm to the character or the appearance of the area, and no harm to visual amenity. There would be no overall 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 convenient and inclusive pedestrian routes and requires 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 the public realm and townscape.

Pedestrian movement

15. The street hub would leave sufficient clear passage beside it so as not to impede people moving along the footway, even when busy. Given the clear

space that would remain on the footway, neither would it restrict the passage of people moving across the street.

16. 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 experience should be added to the public realm. The introduction of street furniture where there is presently none would be to add clutter to the public realm. Because the footway is relatively free of street furniture, the harm would be very limited. Nonetheless, it still counts against the proposal.
17. However, the two phone boxes for removal stand in what appeared to be a narrower section of footway than this proposal. While that footway serves fewer commercial uses, it appeared to me no less busy in terms of people moving along it.
18. Subject to the removal of the phone boxes beside the listed building, I conclude that, on balance, there would be an improvement to pedestrian movement in this street. There would be no overall 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 indicates that applications that introduce unnecessary street furniture should be refused.

Highway safety

19. The street hub would be orientated to face oncoming tram drivers and sited close to the kerb of the footway, in the drivers' sight lines, which would reduce the risk of drivers turning away to look at the advertisement. It would be sufficiently distant from the turn into George Street, tram stops and signalised crossings to avoid any risk of distraction on the approach to them.
20. Given the commercial character of this parade, and the number of advertisements already in the street, the size of the advertisements proposed, and their illumination, would not appear conspicuous or distracting to tram drivers or pedestrians.
21. I have taken into account that trams pass along this street. However, a successful street is a shared, public space. It is not the domain of a single use or a single operator. Sufficient clear passage would remain on the footway to avoid the risk of pedestrians having to move into the tram zone to pass the street hub. 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 or tram line geometry and layout are so complicated, nor that driving conditions are so demanding, that the proposal would present an unacceptable highway safety risk.
22. 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. Nor would the proposal run against the National Planning Policy Framework (the Framework) which

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

stipulates in paragraph 111 that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Crime safety

23. 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.
24. 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 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

25. 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 the metropolitan centre 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.

Conditions

26. 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.
27. 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.
28. 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, 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.

29. The street hub could be erected without the phone boxes being removed. This would, for the reasons above, make the development unacceptable in planning terms. However, a condition to ensure the phone boxes are removed would overcome this.
30. 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.
31. Given the harm 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.
32. 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 guidance² 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.
33. 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

34. There would be no material risk to highway safety and no unacceptable risk to crime safety from the proposed street hub. I found limited harm to the character of the area, and very limited harm to pedestrian movement from its installation. However, I have found that, given the sensitivity of the listed building and the present harm to its significance from the two phone boxes in its setting which would be removed as part of this proposal, as well as the improvement to pedestrian movement on that side of the street, the limited harm identified would be outweighed. For the reasons given above, and taking into account all matters raised, the appeals are allowed.

Patrick Whelan

INSPECTOR

² Professional Lighting Guide 05, The Brightness Of Illuminated Advertisements, 2013, Institution of Lighting Professionals

SCHEDULES OF CONDITIONS

Appeal 'A' Ref: APP/L5240/W/21/3287444

- 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, standing beside the Wellesley Road elevation of the listed Electricity Showrooms and Offices building, Wellesley Road, Croydon, shall be removed and the street surface made good to match the adjoining footway surface materials.

Appeal 'B' Ref: APP/L5240/H/21/3287445

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