



Appeal Decision

Site visit made on 4 April 2023

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2023

Appeal Ref: APP/P5870/H/21/3286345

Footpath opposite Chicken World, Stonecot Hill, Sutton SM3 9HH

- 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 Ms Bella Noakes of British Telecom Plc against the decision of the Council of the London Borough of Sutton.
 - The application Ref DM2021/01469, dated 5 July 2021, was refused by notice dated 10 September 2021.
 - The advertisement proposed is two digital 75 inch LCD display screen, one on each side of the amended InLink unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007, the National Planning Policy Framework (the Framework) and the national Planning Practice Guidance (PPG) confirm that advertisements should be subject to control only in the interests of amenity and public safety. Regard does not need to be had to the development plan. I have taken relevant policies into account as a material consideration; however, they have not, by themselves, been determinative for this appeal.
3. The appellant's statement refers to a planning appeal for the same site. However, the appeal before me relates to the refusal of express advertisement consent only.

Main Issues

4. The main issues are the effect of the proposed advertisements on (i) amenity and (ii) public safety.

Reasons

Amenity

5. The proposal is for 2 digital 75 inch advertisement screens that would be positioned on either side of a Street Hub and would be sited on a pavement adjacent to the A24. The proposal would replace an existing phone box, which has an affixed poster advertisement on its north facing side. There is other street furniture on this stretch of pavement, including bollards, utility cabinets, streetlights, CCTV and a gritting box, but no other advertisements. This pavement is separated from the adjacent parade of shops/commercial units by

- an access road that runs parallel to the A24, which has parking on both sides (including on the pavement in question).
6. Advertising in the immediate locality primarily consists of illuminated and non-illuminated fascia and projecting signs at ground floor level on the retail/commercial units and the occasional A board on the pavement to the front of these units. There is a supermarket a short distance away from the appeal site that has an illuminated totem sign, but this is set back behind a wide pavement. The position of the proposal on a pavement flanked by the A24 and the access road means it would be set away from the retail/commercial units.
 7. Although the proposal would have a more slimline profile than the existing phone box, it would be of a greater height and width and would appear as a bulky freestanding structure in views along the streetscape. The prominence of the proposed advertisements would be further accentuated by the illuminated and digital changing imagery. The proposal due to its edge of pavement location, size and height would appear as a large, prominent and obtrusive feature in the street scene.
 8. For the reasons given above, I conclude that the proposed advertisements would have a harmful effect on amenity. Although not determinative, I have had regard to Policy 28 of the Sutton Local Plan (SLP) 2016-2031, adopted in 2018 and Policy D8 of The London Plan (LP) 2021. These policies are of relevance insofar as they require proposals to have regard to the character of the area, contribute positively to the street scene and ensure that the public realm is well-designed.
 9. I have also had regard to Sutton's Urban Design Guide: Creating Local Distinctive Places Supplementary Planning Document (SPD) 14, adopted in 2008. The SPD requires that proposals respect the local character. Given I have concluded that the proposal is harmful to amenity, it also conflicts with the above development plan policies and SPD.

Public Safety

10. Given the edge of pavement location, the proposed advertisements would be highly visible from the busy A24. The proposed advertisements would be sited close to the junction with Hill Top, which provides access to commercial and residential properties. The same junction also provides access to a spur road that runs parallel to the A24 and provides vehicular access and parking for the parade of shops/commercial units which face the A24. Opposite the appeal site is a medical centre, dwellings and further shops/retail units. There are pedestrian refuse islands a short distance away from the appeal site in both directions.
11. The proposed illuminated, changing advertisements, with static images would attract the attention of drivers travelling in both directions. Given the edge of pavement location and their height, the proposed advertisements would be directly within a driver's line of vision, particularly for those travelling on the carriageway nearest the appeal site. The proposed advertisements could result in a potentially dangerous distraction, in an area where drivers need to be alert to pedestrians crossing and vehicles accessing and exiting the nearby junctions and roads.

12. Whilst the proposal would replace an existing phone box, which has an advert on its north facing side, this advertisement is non-illuminated and the imagery does not change. The proposal would be far more prominent than the existing advertisement. Although other advertisements are visible from the road, these are primarily set back behind the pavement. There are no other illuminated or digital signs at such close proximity to the carriageway in the immediate locality.
13. Although the appellant alleges that the level of illumination and change rate would accord with the Institute of Professional Lighting standards, this would not overcome my concerns relating to public safety.
14. Overall, I conclude that the proposed advertisements would result in harm to public safety. Although not determinative, I have had regard to Policy 36 of the SLP and Policy T4 of the LP. These policies are of relevance insofar as they require proposals to be located to minimise any adverse impact on the highway network and not increase road danger. Given I have concluded that the proposal is harmful to public safety, it also conflicts with these development plan policies.

Other Matters

15. The appellant refers to the social and economic benefits of the proposal, including improvements to the public realm, ultrafast public and encrypted Wi-Fi, free calls to emergency services, public information, USB ports for rapid device charging, environmental monitoring, expanded phone network coverage with 5G mobile enablement and free Council advertising, which would be supported by the advertising revenue. The Street Hubs would be powered by 100% renewable energy. As this is an advertisement consent appeal, the Regulations require that I exercise my powers with regard to amenity and public safety only. The proposed benefits therefore cannot be taken into account in my decision. Nevertheless, there is no mechanism before me for securing some of the benefits, including the free advertising.
16. The appellant has drawn my attention to similar schemes that have been allowed on appeal. Full details of these schemes have not been submitted; however, it is likely that the siting and characteristics of the locality are different. As a result, these schemes are not directly comparable. In any event, I am required to reach conclusions based on the individual circumstances of this appeal.
17. In respect to the conduct and procedures of the Council, this is not a matter that has affected my findings on the planning merits.

Conclusion

18. For the reasons given above, I conclude that the proposed advertisements would be detrimental to amenity and public safety. The appeal is therefore dismissed.

A James

INSPECTOR