

Appeal Decisions

Site visit made on 25 April 2023

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2023

Appeal A Ref: APP/E5900/W/22/3310875

Footpath Outside 241 Commercial Road, Shadwell E1 2BT

- 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 against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/01011, dated 13 May 2022, was refused by notice dated 15 September 2022.
 - The development proposed is removal of existing BT phone box and installation of a proposed replacement BT street hub and associated display of advertisement to both sides of the unit.
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Appeal B Ref: APP/E5900/H/22/3310877

Footpath Outside 241 Commercial Road, Shadwell E1 2BT

- 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 against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/01009, dated 13 May 2022, was refused by notice dated 15 September 2022.
 - The advertisement proposed is two digital 75 inch LCD display screen, one on each side of the Street Hub unit.
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Decisions

1. Appeal A is allowed and planning permission is granted for the removal of existing BT phone box and installation of a proposed replacement BT street hub and associated display of advertisement to both sides of the unit at footpath Outside 241 Commercial Road, Shadwell E1 2BT in accordance with the terms of the application, Ref PA/22/01011, dated 13 May 2022, subject to the conditions set out in the attached Appeal A Schedule of Conditions.
2. Appeal B is allowed and express consent is granted for two digital 75 inch LCD display screens, one on each side of the Street Hub unit as applied for. 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 set out in the attached Appeal B Schedule of Conditions.

Preliminary Matters

3. 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 decision letter.

Main Issues

4. The main issues are as follows:

- For both appeals; the effects of the proposals on the character and appearance/visual amenity of the area.
- For Appeal B only; the effect of the proposal on public safety.

Reasons

Character and Appearance/Amenity

5. The appeal site is located on the footpath lining the northern side of Commercial Road. As the name suggests, the area is predominantly commercial in character with tall buildings comprised of a range of business types at ground floor level with a mix of offices and residences located on upper floors. There is an existing street hub in situ in the appeal location while there are various other types of street furniture in the vicinity such as streetlights and signage.
6. The proposed street hub would replace the existing installation. It would have a similar footprint although the submitted plans show it would be slightly taller, with lesser width and depth. As the unit would replace an existing model, I disagree that there would be an increase in street clutter. The increase in height is minimal, and other aspects of its scale would be a reduction against the existing model. Therefore, I see no harm caused by the replacement of the hub.
7. There is little substantive discussion of the effect of the display of advertisements on the visual amenity of the area. From my observations on the site visit, alongside the usual signage above shop fronts there were other similar scale displays such as on bus stops and another hub outside Watney Market. The appearance of the advertisement displays upon the hub would not be unusual in this commercial area and given their size they would not appear prominent set against the large-scale buildings of the immediate location.
8. Based on the foregoing, in relation to Appeal A, the proposed Street Hub structure would not be harmful to the character and appearance of the area. This would accord with policies S.DH1, D.DH2, D.DH10 and D.DH11 of the Tower Hamlets Local Plan 2031 (THLP) (adopted January 2020) and policies D3, D4, D5 and D8 of the London Plan (LP) (adopted March 2021). Together these policies, amongst other matters, seek to ensure that development complements the character of a locality.
9. With regards to Appeal B, the proposal would not have an unacceptable effect on the amenity of the area. The policies of the development plan have been considered as far as they are material, and in this respect, the scheme would not conflict with the development plan.

Public Safety

10. The Council's officer report highlights the concern that due to the display of dynamic internally illuminated advertisements, which would be close to the

kerb, this could be a distraction for drivers and cyclists travelling along this stretch of Commercial Road. I visited the appeal site at a mid-afternoon timeframe on a Tuesday. At the time, traffic levels were moderate and average speeds of vehicles were low. The road in this location is straight and includes a dedicated bus, taxi and cycle lane which lines the footpath while a general traffic lane was in the middle of the road.

11. There was no evidence of a pedestrian crossing in the vicinity of the appeal site and as such, any people crossing would have to do so when the road is clear. As such, there would be limited scope for the advertisement to distract drivers and increase the risk of conflict with pedestrians. Moreover, conditions can be used to ensure images are static and illumination levels are met. Furthermore, due to the bus and cycle lane, these vehicles would have little reason to change lanes and even if they did enter the general traffic lane, I see no reason why the advertisement would distract drivers or cyclists on the straight section of road with a general low travel speed.
12. Based on the above, the proposed advertisement would not result in a harmful effect on public safety. Insofar as they are relevant, the proposal in Appeal B would accord with policies D.DH10 and S.TR1 of the THLP and policies T1, T2, T3 and T4 of the LP which generally seek to ensure advertisements do not adversely affect public or highway safety, among other things.

Conditions

13. The Council has provided a list of suggested conditions in the event that the appeals are allowed, which the appellant had the opportunity to comment on. In the interests of certainty, with regards to Appeal A I have imposed the standard conditions relating to the commencement of the development and the approved plans. Alongside these, it is necessary to impose a condition to ensure the facing materials of the hub match those set out in the approved plans to ensure the character and appearance and visual amenity of the area is protected. A further condition to ensure anti-social behaviour is managed by software algorithms and reviewed in conjunction with the Met Police's Managing Out Crime team is also necessary to ensure the hub would not encourage anti-social behaviour.
14. In respect of Appeal B, the five standard conditions as set out in the Regulations will apply as confirmed in the Decision paragraph. Additionally, to prevent the proposed advertisements from distracting road users and reduce harm to public safety, I have attached conditions relating to the display and transition of images. These reflect the proposed list of conditions included within the appellant's evidence.

Conclusion

15. Appeal A would accord with the development plan taken as a whole and there are no other material considerations to suggest that the decisions should be made other than in accordance with it. Appeal B would not harm the visual amenity of the area or public safety. Therefore, for the reasons given above, and having regard to all other matters raised, both appeals should be allowed.

C McDonagh

INSPECTOR

Appeal A - Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location plans and proposed site plan - BT STREETHUB TOH-203 Rev.A; Existing & Proposed Views - TOH-203; Street Hub Elevations/Dimensions.
3. All external facing materials to be used in the construction of the development shall be as set out in the approved drawings and the submitted application form. The development shall not be carried out other than in accordance with the approved details.
4. This Street Hub must be managed in accordance with the agreed Version 2 of the BT Street Hub Anti-Social Behaviour (ASB) Management Plan and must include the ongoing use of an algorithm to identify repeated anti-social number use, with a review after the first three months of installation between police and BT to assess any issues arising. Any change to the ASB management plan should be approved by the local planning authority and the Metropolitan Police Designing Out Crime Team. The ASB management plan must remain implemented for the lifetime of the device.

Appeal B – Schedule of Conditions

1. The minimum display time for any advertisement shall be 10 seconds and the change between advertisement images shall take place over a period no greater than one second with no sequencing, fading, swiping or merging of images.
2. The advertisements shall only display static images and shall not display any moving images, animation, intermittent or full motion video images.
3. A mechanism shall be in place so that if the installation breaks down it freezes the image to avoid any flashing error messages or pixilation.
4. No content on the advertisements shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.
5. The intensity of the illumination of the advertising unit and display permitted by this consent shall be no greater than 600 cd/m² between the hours of dusk (local sunset time) and dawn (local sunrise time).

END OF SCHEDULES