
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/22/3310878

Footpath outside 447-453 Hackney Road (Mixcloud), London E2 9DY

- 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/22/01013, dated 13 May 2022, was refused by notice dated 15 September 2022.
 - The development proposed is described as '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/W/22/3310879

Footpath outside 447-453 Hackney Road (Mixcloud), London E2 9DY

- 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/22/01005, dated 13 May 2022, was refused by notice dated 21 September 2022.
 - The advertisement proposed is described as '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 dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The two appeals are located at 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 Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) stipulate that control may be exercised only in the interests of amenity and public safety. In determining the advertisement appeal, development plan policies are not determinative, but I have taken them into account where relevant.

Main Issues

5. The main issues in both appeals are as follows:

- The effect of the proposals on the character and appearance/visual amenity of the area and the setting of heritage assets; and
- The effect of the proposals on public safety.

Reasons

Character and Appearance/Amenity

6. The appeal site is located towards the rear of the footpath lining Hackney Road and currently includes an older model phone box which appeared at the time of my visit to be disused and in a poor state of repair. Nearby there is a bus stop with a two-way digital advertisement display and other street furniture such as litter bins and road signage. The local area is predominantly commercial with a range of building heights and architectural styles. Generally speaking, there are shops, cafes and other businesses at ground floor levels with residential premises above.
7. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker to pay special attention to the desirability of preserving the setting of a Listed Building. The appeal site is within the setting of two Listed Buildings: 444 Hackney Road and 446-450 Hackney Road, both of which are Grade II. Both are located within the same terrace and derive part of their significance from their architectural interest, particularly their detailing and attractive frontages, and their historic association with the development of the area. The appeal site lies outside of the Hackney Road Conservation Area (HRCA), although given the proximity there is no dispute between the parties that the proposal would be within its setting.
8. I agree that the existing telephone box detracts from the street scene while it also evidently has a greater overall volume than the proposed development. Conversely, the proposal would be a more contemporary and modern machine compared to the existing kiosk. Given the unit would replace one hub with another, I agree that it would not add clutter to the street scene. Nevertheless, the proposal would introduce a structure of almost 3m in height and a width of around 1.2m which would be much taller and more prominent than the telephone kiosk it would replace.
9. It would also incorporate high-definition digital displays on both its sides that would feature changing advertisements on a screen with a diameter of some 75 inches. Although the commercial character of the area is evident through the display of advertisements including shop fascia's, the prevailing nature of advertisements in the area is somewhat muted, and while the adjacent bus stop has a display, this is of a smaller overall height. The proposed advertisements would exacerbate the street hubs prominent siting as the display of digital images would further draw the eye to it. They would appear as dominant and incongruous additions in this setting.
10. The size, illumination and changing nature of the proposed displays would result in a far more visually intrusive structure that would be an incongruous feature within the street scene. I note the appellant has suggested controls in

line with guidance from the Institute of Lighting Professionals would control the level of illumination. However, this would still not overcome my concerns with the proposal's effects on the character of the area.

11. Accordingly, in relation to Appeal A, the proposed Street Hub structure would be harmful to the character and appearance of the area, including failing to preserve the setting of Listed Buildings and the HRCA. As such, Appeal A would conflict with policies S.DH1, D.DH2, S.DH3, D.DH4, D.DH10 and D.DH11 of the Tower Hamlets Local Plan 2031 (THLP) (adopted January 2020) and policies D3, D4, D5, D8 and HC1 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 including respecting the historic environment.
12. With regards to Appeal B, the proposal would 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 also conflict with the development plan.

Public Safety

13. The submitted proposed site plan (Ref BT STREETHUB TOH-214 Rev A) demonstrates that the hub would be positioned towards the front of the footpath lining Hackney Road while projecting further into the path than the existing phone box given its width. Be that as it may, the plan shows that around 3.5m distance would remain from the hub to the adjacent building. From my observations on the site visit the footpath was wide and pedestrian mobility was not affected by the existing box. The proposal may be wider, but there is little explanation as to why this would hinder pedestrians when using the footway.
14. Based on the evidence before me, the hub subject to Appeal A would leave suitable circulation space even when the hub would be in use. This would accord with policies D.DH10 and S.TR1 of the THLP and T1, T2, T3 and T4 of the LP. These seek, among other things, to ensure development does not adversely impact the capacity, quality, accessibility and safety of the transport network in the borough.
15. With regards to Appeal B, the proposed advertisement display would be near the adverts displayed in the bus stop adjacent. I understand there is concern that a cumulative effect could occur which would distract drivers and cyclists when the display changes. However, the road is straight with a low-speed limit. Moreover, although buses would routinely pull into the stop to allow passengers to board and disembark, there is a dedicated bus lane which allows other traffic to pass. I observed this on the site visit, and when drivers and cyclists had passed the bus stop there was little to suggest the advert display would cause a distraction that would be harmful to public safety.

Other Matters

16. I have found harm with regards to the character and appearance/amenity of the area which includes harm to the setting of the HRCA and Listed Buildings. The harm that would arise to the designated heritage assets would be less than substantial. As per paragraph 199 of the National Planning Policy Framework (the Framework) the harm to the heritage assets should be weighed against

any public benefits of the proposal. I have not found harm to public safety as a result of the hub and advert, although a lack of harm does not weigh in favour of the scheme.

17. The appellant has highlighted several public benefits associated with the appeal scheme. This includes free public phone calls, ultra-fast Wi-Fi, council messages, charging for devices, air quality sensors and free advertising for small businesses. It is also stated that for sites that have not progressed to the planning application stage for new hubs in the same Council area, these would still be removed as they are disused. This would be a positive aspect of the scheme, although it is unclear as to how this would be secured or whether this is contingent on proposals such as the one before me to be approved for these removals to proceed.
18. In any event, the public benefits are given positive weight in the planning balance. Additionally, the Street Hub would align with paragraph 114 of the Framework's objective of supporting advanced, high-quality communications infrastructure.
19. My attention is drawn to other appeals for ostensibly similar proposals which were allowed. Be that as it may, I have very little information on any of these before me other than extracts of decisions. Moreover, these seem to be spread across a wide area, including Liverpool, Portsmouth and Dundee. As such, I cannot be certain of the exact circumstances of these other developments and their relevance to this appeal, other than being of a similar type of development proposed.
20. However, while I do not question the need for infrastructure such as the hub in general, I am not convinced that this is the only location available for the hub and manner in which the development could take place. This is particularly important given the adjacent HRCA and Listed Buildings. This therefore limits the weight I afford to the public benefits arising from this development, which in practical terms would only be very modest. Consequently, the public benefits of the proposal would not outweigh the identified harm to the setting of heritage assets and character and appearance/amenity of the area.

Conclusion

21. Taking all the above into consideration, Appeal A would be contrary to the development plan and there are no other considerations, including guidance in the Framework, which indicate that a decision should be made other than in accordance with the development plan. Moreover, Appeal B would be contrary to the Regulations. Therefore, both appeals should be dismissed.

C McDonagh

INSPECTOR