



Appeal Decisions

Site visit made on 16 May 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2023

Appeal A Ref: APP/Z5630/W/22/3292136

Land outside 178 High Street, New Malden KT3 4ES

- 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 Thomas Johnston (JC Decaux UK Ltd) against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/03691/FUL, dated 19 November 2021, was refused by notice dated 14 January 2022.
 - The development proposed was initially described as *"This proposal seeks planning permission and advertisement consent to install an open access Communication Hub, following the removal of an existing communication apparatus, as illustrated in the attached documentation"*.
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Appeal B Ref: APP/Z5630/H/22/3292135

Land outside 178 High Street, New Malden KT3 4ES

- 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 Thomas Johnston (JC Decaux UK Ltd) against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 21/03692/ADV, dated 19 November 2021, was refused by notice dated 14 January 2022.
 - The advertisement proposed was initially described as *"This proposal seeks planning permission and advertisement consent to install an open access Communication Hub, following the removal of an existing communication apparatus, as illustrated in the attached documentation"*.
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Decision

1. **Appeal A** is allowed, and planning permission is granted for the installation of an open access Communication Hub at Land outside 178 High Street, New Malden KT3 4ES in accordance with the terms of the application, Ref 21/03691/FUL, dated 19 November 2021, subject to the conditions set out in the attached schedule.
2. **Appeal B** is allowed, and express consent is granted for the display of an internally lit advertisement LCD sign integrated into proposed Communication 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 contained in the attached schedule.

Preliminary Matters

3. There are two appeals on this site, one against the refusal of planning permission and the other against the refusal of advertisement consent. They are intrinsically linked and raise similar issues. I have considered each proposal on its individual merit and with regard to the relevant legislation, policy and

guidance. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. In the formal decisions for both appeals I have referred to the description of the development used by the Council in their respective decision notices, with the omission of the reference to the removal of existing communication apparatus. These describe the development and the advertisement components more precisely than that given on the application forms. I have also removed the word 'at' from the address in both banner headings which was superfluous to the description of the appeal site.
5. In respect of Appeal B, Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (The Regulations) and the National Planning Policy Framework (the Framework) both make it clear that advertisements should only be subject to control in the interests of amenity and public safety, taking into account cumulative impacts. Regard does not need to be had to the development plan. I have taken relevant policies into account as material considerations though they have not, by themselves, been decisive in my determination.

Main Issue

6. The main issue for both appeals is the effect of the proposed development on the character, appearance and visual amenity of the area.

Reasons

7. No. 178 High Street is a 3-storey building situated in a parade of commercial units with residential accommodation above. The appeal site is located with a wide section of pavement containing a variety of street furniture including, amongst other things, street trees, a bench, street lighting and signage. It is located within a District Shopping Centre, characterised by parades of predominantly commercial premises and shops at ground floor with mixed uses above. As a District Centre, the locality features an array of shop frontage advertisements and other signage frequently seen in a high street environment including A-boards. A similar communications hub including an advertisement panel is located on the pavement opposite.
8. The communications hub would incorporate a telephone, defibrillator, solar panel and illuminated touch screen on one side with an illuminated advertisement panel showing a series of static images on the other. The advertisement would be on the south side of the structure and would be viewed in the context of commercial properties. As the panel would be on the reverse side of the communication hub to the advertisement panel on the communication hub on the opposite side of the road the advertisements would not be viewed in tandem.
9. The proposed structure would be placed close to the carriageway away from the surrounding buildings. Its scale and simple form would ensure that it would integrate satisfactorily into the local environment. Whilst the hub would be a notable addition to the street scene, it would respect the character of its high street location and would not be unduly prominent or obtrusive within it.
10. During the hours of darkness, it would appear more pronounced due to its internal illumination. However, subject to controlled lighting intensity, which

could be controlled by condition, it would not appear overly imposing or incongruous in its commercial setting.

11. Although there are other items of street furniture close by, the width and expanse of the footway here means that it would not appear overly cluttered. Furthermore, the distance from other similar digital advertising on the street would mean that any sense of proliferation of advertising would be avoided and the distance from street trees within the pavement would be unlikely to lead to root damage.
12. The proposal is intended as a replacement for a telephone box which was removed some time ago from a location at Apex Tower (7 New Malden High Street). This site is some distance away from the site now under consideration. I therefore do not consider that the proposal before me would be a direct replacement and have therefore attributed little weight to this in the consideration of the appeal.
13. For the reasons given, I find that the proposals would not adversely affect the character, appearance or the visual amenity of the area. As a result, there would be no conflict with either Policy CS8 or DM10 of the Royal Borough of Kingston upon Thames Local Development Framework Core Strategy (2012) which requires development to relate well and connect to its surroundings and the character and local distinctiveness of a street or area is respected, maintained or enhanced.

Other Matters

14. I have had regard to other matters raised including access and traffic issues, and pedestrian safety. The Highway Authority did not object to the proposal and highway safety did not form one of the Council's reasons for refusal. I have no substantive evidence before me which would reach an alternative conclusion on this issue, and I am satisfied that the proposal would not cause a significant risk to highway safety. Neither have I been presented with any substantive evidence that the unit would create undue noise so as to harm the living conditions of those residing close by.

Conditions

15. With regard to Appeal A, I have considered the conditions suggested by the Council and the appellant in the light of the tests set out in the Framework and advice in the Planning Practice Guidance (PPG). As well as the standard time limit, I have imposed a plans condition in the interests of certainty.
16. With regard to Appeal B, I have considered the conditions suggested by the appellant in the light of the tests set out in the Framework and the advice in the PPG. The conditions set out in the attached schedule are in addition the five standard conditions set out at Schedule 2 of the Regulations. These conditions are not repeated in the schedules attached. I have attached conditions relating to the use of visual effect, the levels of illuminance and duration of the advertisements in the interests of visual amenity and highway safety.
17. I have considered the suggested condition requiring the submission of a management plan prior to the installation of the hub. However, I note that a management plan was submitted with the appeal. I have therefore included a condition which requires the development to be maintained in accordance with the document submitted.

Conclusion

18. For the reasons given above and having had regard to all other matters raised, **Appeal A** and **Appeal B** are allowed subject to the conditions set out in Schedules 1 and 2 attached to this decision, respectively.

K L Robbie

INSPECTOR

SCHEDULE 1

SCHEDULE OF CONDITIONS – APPEAL A

- 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: A01756 Pavement outside 178 (Foxton's) New Malden High Street KT3 4ES Site Plan and Images; A01756 Communication Hub Upgrade Proposals Hub Unit Details.
- 3) The development hereby approved shall be maintained in accordance with the measures detailed in the Communication Hub Unit Management Plan (V1 October 2020).

End of Schedule

SCHEDULE 2

SCHEDULE OF CONDITIONS – APPEAL B

- 1) No visual effects of any kind to be permitted to accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method.
- 2) The minimum time between successive displayed images shall be 10 seconds.
- 3) The means of illumination shall not be intermittent, pulsating or flashing and the intensity of the illuminance of the advertisement shall be no greater than 600Cdm² during the hours of darkness.

End of Schedule