



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: 23 June 2023

Appeal A Ref: APP/Z5630/W/22/3303479

Pavement opposite 44 Union Street, London KT1 1RP

- 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 22/01119/FUL, dated 4 April 2022, was refused by notice dated 30 May 2022.
 - The development proposed is described as "*The installation of a multi-functional Communications Hub including advertisement display, as illustrated in the attached documentation*".
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Appeal B Ref: APP/Z5630/H/22/3303480

Pavement opposite 44 Union Street, London KT1 1RP

- 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 22/01120/ADV, dated 4 April 2022, was refused by notice dated 30 May 2022.
 - The advertisement proposed is described as "*The installation of a multi-functional Communication Hub including advertisement display, as illustrated in the attached documentation*".
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Decision

1. Appeal A and Appeal B are both dismissed.

Preliminary Matters

2. As set out above, there are two appeals on the site. I have considered each proposal on its own individual merits. However, the communication hub and advertisement are inextricably linked in each case. 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.

Main Issues

3. For both appeals the main issues are the effect of the development on:
 - The character, appearance and amenity of the area, having regard to setting of the Kingston Old Town Conservation Area (KOTCA) and nearby listed buildings;
 - Highway (public) safety, with regard to the safe movement of pedestrians; and
 - The risk of crime and public safety.

4. For Appeal A only, an additional main issue is:

- Whether the proposed development has been suitably designed to minimise energy consumption.

Reasons

Character and Appearance

5. The appeal site is located on an area of footpath outside 44 Union Street within Kingston-upon-Thames town centre. It lies outside but immediately adjacent to the boundary of the KOTCA, which encompasses the historic core of the town centre. The proposed communications hub would be located on an area of pavement formed between a turning head within the street, an adjacent church hall building and the façade of the modern shopping centre complex of which No. 44 is part.
6. This section of pavement contains a cycle rack, post box, several bollards and road signage. The prevailing character of the area is principally commercial in nature. Buildings of different shapes and sizes and from different eras enclose this section of the street. Their ground floors include shops, offices, bars and community uses, as such there is a proliferation of shop front signs and window displays within the street, typical of a busy commercial area.
7. The proposed hub would be positioned so that the advertisements would face south towards oncoming vehicles and pedestrians on a large, illuminated screen. Within its context in the street, the scale, orientation, and dynamic nature of the digital advertisement panels, capable of displaying several static images over time would be a visually dominant feature and would further draw attention to it. Whilst light levels emitted would or could be reduced overnight, it would nevertheless be a bright feature in the street. Given that the hub would be viewed against the smooth rendered church hall façade it would not, however, detract from the significance of the KOTCA described above. Nevertheless, even taking into account the busy commercial surroundings, the hub and its digital displays would be an obtrusive addition to the streetscape at this particular location.
8. There are several Grade II listed buildings in proximity to the appeal site. The former Crown Public House at 2 Church Street, 4 Church Street and 6, 8 and 8A Church Street. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest.
9. 2 Church Street is a three-storey building with an early to mid-18th century façade. The building's features of special interest include its window and brick detailing at the upper floors. No. 4 is a mid-19th century building which is listed for its group value. Nos. 6, 8 and 8A is a two-storey building which was originally a public house but has been divided into three shops. Its special interest is derived from its architectural details which remain intact. They are all located on the opposite side of Union Street to the appeal site. Through their architectural detail and visual interest, these heritage assets make a positive contribution to the character of the area.
10. However, within the overall street scene, the buildings are of a mix of types and the area in which the appeal site is situated has an overall modern

character. The communications hub would be visible within wider views of these heritage assets, as would a number of other modern buildings and features. As a result, I do not consider the visual impacts of the proposed unit would amount to harm to their setting.

11. Whilst I have identified no harm in respect of the setting of the heritage assets, the proposal would have an adverse effect on the character, appearance and amenity of the area in more general terms. There would, therefore, be a conflict with Policies CS8 and DM10 of the Kingston upon Thames Local Development Framework Core Strategy 2012 (the CS) which requires development to relate well and connect to its surroundings and respect the character and local distinctiveness of an area, and avoid locating structures, such as the type proposed where they would result in an adverse effect on the character and visual amenities of the local and wider area.

Pedestrian Safety

12. The street is a busy thoroughfare providing access to the nearby shopping centre and the historic town centre. I observed a high and constant flow of pedestrians through the area on a weekday lunchtime, and I am mindful that pedestrian flows would likely to be higher at weekends or when events at the church hall are taking place.
13. The proposal would be positioned between a post box and the façade of No.44. Within the area of pavement containing the appeal site is a row of three steel cycle racks positioned in a perpendicular arrangement to the church hall wall which would significantly reduce the gap between the church hall and the communications hub. As such the ability for pedestrians to manoeuvre freely through the area would be severely impeded. The communications hub in tandem with the existing post box would therefore be a significant barrier to pedestrian movement within the street. Whilst it would not prevent people from passing along the street, it would significantly hinder free movement along it. Its siting would compel people, especially those in groups or pushing prams or wheelchairs to have to consciously consider how best to pass through the space.
14. For these reasons, the proposals would adversely affect the safe and free movement of pedestrians at this location. Thus, there is conflict with Policy DM10 of the CS, which requires regard to the given to the public realm and to ways in which it can be enhanced as an integral part of the design of the development and not adversely affect highway safety. There would also be conflict with paragraph 111 of the National Planning Policy Framework (the Framework) which seeks to ensure that development does not have any unacceptable impacts on highway safety.

Crime Safety

15. The Metropolitan Police have not identified the proposed location of the communications hub as being at a high risk of crime. Nevertheless, to my mind, the positioning of the proposed hub, would, due to its height and width reduce natural surveillance of any bicycles occupying the racks behind. It would also create a blind spot in the pavement, thereby increasing the risk of crime and anti-social behaviour. Whilst the hub itself has design features aimed at reducing opportunities for crime and a planning condition to secure the management plan would help reduce the risk of the communications hub being

used for crime, it would not mitigate the potential harm to safety arising from its siting.

16. I therefore conclude on this issue that the proposal would therefore pose an unacceptable risk to crime safety crime safety. The proposal would conflict with CS policy DM10 and London Plan Policy D3 which requires development to achieve safe and secure environments and would be contrary to the provisions of the Crime and Disorder Act 1998 (as amended).

Energy Consumption – Appeal A Only

17. The Council is concerned that the energy consumption of the proposed unit would be equivalent to that of three houses per day, and therefore it would be not unreasonable to consider the proposal equivalent to that of building development. Whilst Policy SI2 of the London Plan is not relevant in this case as it only refers to major development, paragraphs 152 and 154 of the National Planning Policy Framework (the Framework) support the use of renewable and low carbon energy and promote the design of new development to help reduce greenhouse gas emissions.
18. The hub would be fitted with a solar panel, and the appellant states that it uses energy from green sources, which I agree are measures which, in part, would reduce the energy consumption of the proposed unit. Although the specifications of the hub state that the LED display would be dimmable to minimize power consumption, it has not been demonstrated whether the panel would be dimmed routinely at certain times of the day specifically to reduce energy consumption. Neither does the specification state what percentage of the unit's energy consumption would be capable of coming from the solar panel.
19. It has therefore not been demonstrated that the proposed development has been designed minimise the consumption of energy. There would, therefore, be some conflict with the requirements of paragraph 152 and 154 of the Framework in so far that I cannot reasonably ascertain whether the appellant has done all that is possible to minimise energy use from the proposal.

Conclusion

20. The proposal would harm the character, appearance and visual amenity of the area. It would also adversely affect pedestrian movements in the area, as well as introducing an unacceptable risk to crime safety. As such, in respect of Appeal A, it would be contrary to the development plan when read as a whole.
21. The communications hub would, however, provide an efficient, reliable and free to use public service and would incorporate a defibrillator. It would also be powered by renewable energy. I have further considered the conditions suggested by the appellant relating to illuminance and restrictions on the display of images within the advertisement panel. Nevertheless, these benefits and measures would not outweigh the harm identified above.
22. Therefore, for the reasons given above both Appeal A and Appeal B should be dismissed.

KL Robbie

INSPECTOR