



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: 06 July 2023

Appeal A Ref: APP/Z5630/W/22/3303481

Pavement opposite 187-201 London Rd, Norbiton, London KT2 6PQ

- 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 22/01127/FUL, dated 4 April 2022, was refused by notice dated 21 June 2022.
 - The development proposed is the installation of a multi-functional Communication Hub including advertisement display, as illustrated in the attached documentation.
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Appeal B Ref: APP/Z5630/H/22/3303483

Pavement opposite 187-201 London Road, Norbiton, London KT2 6PQ

- 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 22/01128/ADV, dated 4 April 2022, was refused by notice dated 21 June 2022.
 - The advertisement proposed is 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 is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. 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

4. For both appeals the main issue is:
 - The effect of the proposed development on highway (public) safety, with particular regard to cyclists and pedestrians; and
5. For Appeal A only, an additional main issue is:
 - Whether the proposed development has been suitably designed to minimise energy consumption.

Reasons

Highway Safety

6. The appeal site is located within the highway between the entrance and exit of a fuel filling station on London Road (A308) and close to a five-spur roundabout junction with Clifton Road, Manorgate Road and Park Road. The footway in the vicinity of the appeal site is also designated as a two-way cycleway forming part of the C30 cycle route.
7. This section of shared cycle and footway is reasonably wide and, except for a post box, is free of street furniture between the two access points to the filling station. The proposed communications hub would be located close to the low wall demarking the filling station forecourt boundary and would be approximately 7 metres from the entrance to the filling station. The cycle route is clearly marked with painted symbols on the surface at the access points to the filling station.
8. On my visit, I observed that the filling station was busy, and both the entrance and exit were in regular use by vehicles accessing the site. The shared route was also well used by both pedestrians and cyclists. Whilst I appreciate that this was a snapshot in time on a weekday morning, there is no reason to suggest that this level of activity was not typical for this location. The proposal would effectively block the full width of the north-bound lane of the cycle route. It would restrict the visibility both for and of vehicles exiting the filling station and also for and of users of the shared path in this busy location to the detriment of highway safety.
9. Furthermore, the proximity of the proposed hub to the nearby post box would create a chicane which would unduly increase conflict between pedestrians and cyclists travelling in opposite directions and could lead to collisions. It would also obstruct visibility for cyclists and pedestrians of other users of the shared path which would further increase the likelihood of collisions.
10. In respect of Appeal A, I therefore conclude that the proposal would harm public safety, with particular regard to pedestrian and cyclist safety. The proposal would conflict with Policies DM8 and DM10 of the Kingston Core Strategy (2012) which seek to ensure that local traffic conditions and highway safety are not adversely affected, and the access needs of pedestrians and cyclists are prioritised in the design of new development. There would also be conflict with Policies D3 and D8 of the London Plan (2021) which seeks to ensure that street furniture is not poorly located. The proposal would also not comply with the aims of Section 9 of the National Planning Policy Framework (the Framework) in promoting sustainable transport and avoiding conflicts between pedestrians, cyclists and vehicles and unnecessary street clutter.
11. In respect of Appeal B, I conclude that the proposed advertisement would unduly harm public safety for the reasons give above. I have taken into account the policies of the development plan and the Framework so far as they are material, and where identified the scheme would conflict with the policies referred to above in this respect. The proposed advertisement also conflicts with paragraph 136 of the Framework, in respect of its aim of protecting places from poorly sited advertisements and controlling advertisements in the interests of public safety.

Energy Consumption – Appeal A Only

12. 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.
13. 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.
14. It has therefore not been demonstrated that the proposed development has been designed to minimise the consumption of energy. There would, therefore, be some conflict with the requirements of paragraphs 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.

Other Matters

15. The site is not located in a Conservation Area and would be located in an area where there are commercial premises are close by. The proposal would provide a defibrillator and fast, reliable communications infrastructure for public use. These are public benefits that weigh in favour of the proposal. However, they do not outweigh the harm that I have found on the main issues.
16. In respect of Appeal B, the Council has not raised concerns regarding amenity impacts of the proposed advertisement and there is no evidence before me that would lead me to conclude otherwise.

Conclusion

17. For the reasons set out above and having had regard to all other matters raised, I conclude that both the appeals A and B should be dismissed.

K L Robbie

INSPECTOR