



Appeal Decisions

Site visit made on 21 June 2023

by Hannah Guest BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2023

Appeal A Ref: APP/L5240/W/22/3307309

Pavement outside 134 North End, Croydon CR0 1UE

- 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 JCDecaux UK against the decision of the London Borough of Croydon Council.
 - The application Ref 22/02765/FUL, dated 30 June 2021, was refused by notice dated 24 August 2022.
 - The development proposed is installation of a modern, multifunctional Hub unit featuring an integral advertisement display and defibrillator.
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Appeal B Ref: APP/L5240/H/22/3307311

Pavement outside 134 North End, Croydon CR0 1UE

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by JCDecaux UK against the decision of the London Borough of Croydon Council.
 - The application Ref 22/02766/ADV, dated 30 June 2021, was refused by notice dated 24 August 2022.
 - The development proposed is 86-inch LCD screen capable of showing illuminated static displays in sequence.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. There are two appeals relating to the 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. To avoid repetition, while considering each on its own merits, I have dealt with both in a single decision letter.
4. The addresses given on the application form and appeal form differ. I have used the address on the application form in the banner heading above and have added 'Pavement outside' as this more accurately describes the location of the proposed development.

Main Issues

5. The main issues in respect of Appeal A are the effect of the proposed development on:

- the character and appearance of the area, including whether it would preserve or enhance the Central Croydon Conservation Area, and the significance of locally listed buildings;
 - the functioning of the public realm; and
 - highway and pedestrian safety.
6. The main issues in respect of Appeal B are the effect of the proposed advertisement on the visual amenity of the area and public safety.

Reasons

Character and Appearance/Visual Amenity

7. North End forms part of the commercial and civic core of Croydon. Its frontage is primarily retail at ground level, and it is flanked by two indoor shopping centres.
8. Most of North End is located within the Central Croydon Conservation Area (CCCA), including the area where the proposed development would be located. I have therefore approached Appeal A in the context of Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act), which requires special attention be paid to the desirability of preserving or enhancing the character and appearance of the CCCA. In respect of Appeal B, I have taken the same approach, in so far as it relates to my consideration of amenity.
9. North End comprises a relatively wide highway that follows the historic street pattern. It is largely pedestrianised, apart from the immediate area where the proposed Hub unit and proposed advertisement would be located, which comprises a fairly, typical highway arrangement with footways either side of a moderate sized carriageway. There are a significant number of pedestrian movements along this section of North End, which creates a large degree of vibrancy.
10. Despite more recent commercial development, North End retains its historical fabric, particularly above ground level. The area where the proposed Hub unit and advertisement would be located comprises a variety of historical buildings dating from the mid-19th Century, including Nos 132 to 136 (even), which are locally listed. The buildings are predominately terraced and vary in height, up to 3-storeys.
11. There are significantly less street trees along this section of North End in comparison to the rest. The arrangement of street furniture is also less ordered and as a result less visually contained. While the absence of street trees creates a greater sense of openness, the street furniture appears a little haphazard and the public realm slightly cluttered. Notwithstanding this, the existing items of street furniture are not overly large and appear as subordinate features in the public realm. They have a simple design and although the materials used vary, the coloured finish is mainly black or silver.
12. In terms of advertisements, generally any freestanding advertisements along this section of North End are modest, non-digital, non-illuminated, A-boards or similar. There is a variety of other types of advertisement, which are not free-standing. These include illuminated moving signs attached to the tech shops

located on the opposite side of the carriageway to where the proposed development would be located.

13. The significance of the CCCA, in so far as it relates to this appeal, is the architectural value and arrangement of the buildings and how they relate to the evolution of the area, including the openness resulting from the width of the highway. The CCCA Appraisal and Management Plan (2014) identifies street clutter as a threat and issue affecting the character and appearance of the CCCA.
14. The proposed development would be located on the edge of the footway outside No. 134 North End and would be aligned with other items of street furniture comprising cycles stands and road signs, as well as a single street tree. It would be positioned between an existing road sign and cycle stand.
15. Nonetheless, the proposed Hub unit would be significantly wider than this existing street furniture and would project further across the footway. While the road signs and tree would be taller than the proposed Hub unit they have slim vertical profiles, which would also be narrower. Thus, the proposed Hub unit, in comparison, would appear far bulkier.
16. The simple form and black and dark grey appearance of the proposed Hub unit would not appear incongruous in the street scene. However, by virtue of its size, particularly its width, it would not be in keeping with the existing street furniture. While it may be that this type of development could be successfully integrated into conservations areas, in this case, the proposed Hub unit would be an obtrusive feature in the street scene and would erode the openness of the immediate area. This would harm the significance of the CCCA and the setting of the locally listed buildings, albeit the harm to the locally listed buildings would be moderated to a degree, as their more significant historical fabric is on the upper floors.
17. The proposed advertisement is significantly larger than any other freestanding advertisements in the immediate area. Given this, and that digital illuminated freestanding advertisement are not prevalent in the area, it would be an incongruous addition to the street scene and would increase the obtrusiveness of the Hub unit. This would harm the visual amenity of the area, including the significance of the CCCA. Notwithstanding this, for the same reasons as above, there would be less harm to the setting of the locally listed buildings.
18. The Council has raised concerns regarding the brightness of the illumination of the proposed advertisement. It is not clear from the information provided as part of the application exactly what level of illumination is proposed. The operational limit is identified in the Hub Unit Detail document¹ as 2000Cd/m² during the day and 600Cd/m² at night. The appellant has also suggested that a condition be imposed limiting the brightness of the illumination to 300Cd/m² from dusk till dawn. I note that this level of illumination is considered satisfactory by the Council's Pollution Control Officer with regards to light pollution. Nonetheless, despite there being other types of illuminated advertisements in the area, any level of illumination would further exacerbate the obtrusiveness of the proposed development that I have identified above.

¹ Appendix A London Borough of Croydon, Communication HUB Proposal, Hub Unit Detail to London Borough of Croydon, Communication HUB Proposal, Site 1 Pavement outside 134 North End CR0 1UE, Site Plan and Images by JCDecaux.

19. In respect of Appeal A, for the reasons above, I find the harm to the significance of the CCCA would be less than substantial. As such Paragraph 202 of the National Planning Policy Framework (the Framework) requires this harm to be weighed against the public benefits of the proposed development.
20. In terms of benefits, the proposed development would provide several public services, including free ultrafast Wi-Fi, free phone calls to landlines and charities, a defibrillator, wayfinding, device charging, rapid connection to emergency services, public messaging capabilities, and a platform for other technologies, such as environmental conditions, CCTV and key data.
21. The Council have raised concerns that some of these services, such as free ultrafast Wi-Fi, device charging and phone calls, could lead to an increase in anti-social behaviour and in turn violent crime associated with robbery and the theft of mobile phones. The Metropolitan Police share the same concerns and consider the proposed location a severe risk. Despite the appellant's management plan, they have requested that at this location the free WI-FI, phone calls and phone charging is not made available. Given this, I can afford the benefit of these services very little weight. I afford greater weight to the provision of a defibrillator, as there did not appear to be any other devices located nearby, and it would increase the chances of someone surviving an out of hospital cardiac arrest.
22. The proposed Hub unit would be powered by green electricity and lit using high-capacity batteries, powered by solar energy. This recognises the climate emergency and the need to reduce carbon. Thus, also weighs in favour of the proposed development.
23. Paragraph 199 of the Framework gives great weight to the conservation of designated heritage assets including conservation areas. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm. I must pay special attention to the desirability of preserving and enhancing the character and appearance of the CCCA. Given this, the benefits of the proposed development, even when taking account of the greater weight afforded to the provision of a defibrillator and the environmental benefits of the proposed Hub unit's energy efficient design, do not outweigh the harm I have identified to the significance of the CCCA.
24. Accordingly, in respect of Appeal A, the proposed development would harm the character and appearance of the surrounding townscape, the significance of the CCCA and the setting of the locally listed buildings, albeit any harm to the setting of the locally listed buildings would be limited. Thus, it would conflict with Policy SP4 of the Croydon Local Plan (2018) (Local Plan) and Policy D3 of the London Plan (2021). These seek to ensure that development is of a high quality, which respects and enhances local character and contributes positively to the public realm, landscape, and townscape by following a design-led approach. It would also conflict with Policy DM18 of the Local Plan and Policy HC1 of the London Plan (2021), which seek to preserve and enhance the significance of heritage assets.
25. In respect of Appeal B, the proposed advertisement, by virtue of its size and illumination would harm the visual amenity of the area. While the policies referred to above do not relate directly to advertisements and are not determinative, they seek to protect the visual amenity of the area. The proposed advertisement would conflict with these policies.

Functioning of the public realm

26. Although not specifically referred to on the Decision Notice, the Council raise concerns regarding the proposed development's effect on the functionality of the public realm and refer to Policy D8 of the London Plan (2021). This policy seeks to conserve and enhance the quality of the Public Realm, by among other things, considering the use, design, and location of street furniture so that it complements the use and function of the space.
27. The section of footway where the proposed development would be located has a large number of pedestrian movements during the day. This is partly due to pedestrians being funnelled at this point from the pedestrianised part of North End to a highway arrangement with separate footways and a carriageway, meaning the amount of pedestrian space is significantly reduced. The proposed development would create an obstruction that would further reduce the amount of footway contrary to the aims of Croydon's Public Realm Design Guide (2019) (SPD) and would subsequently disrupt the flow of pedestrians. Any alternative route would require pedestrians to cross the carriageway.
28. Accordingly, in respect of Appeal A, the proposed development would clutter and harm the functioning of the public realm. It would therefore conflict with Policy SP4 of the Local Plan and Policy D8 of the London Plan (2012) in this respect.

Public Safety

29. The section of North End where the proposed development would be located sits between its junction with Station Road and Tamworth Road and the beginning of the pedestrianised area. The adjacent carriageway is one-way and limited to buses, cycles and taxis. Nonetheless, I saw on site that there are relatively frequent vehicle movements along it, including HGVs delivering to the retail units. There is also a pedestrian crossing close by linking the footway with the start of the pedestrianised area.
30. Planning Practice guidance advises on the locations of and types of advertisement most likely to affect public safety on roads. It includes junctions and pedestrian crossings and those advertisements that are internally illuminated and subject to frequent changes of display, such as the proposed advertisement.
31. The proposed development would significantly narrow the footway, which would impede the flow of pedestrians. Any alternative route would involve crossing the carriageway. Given this, and that the footway in this location is flush with the carriageway, there would be an increased risk of pedestrians stepping onto the carriageway to manoeuvre round the Hub unit, which would increase the risk of collision between vehicles and pedestrians.
32. It is unlikely, given the distance between the proposed advertisement and junction, that the proposed development would be a distraction to motorists waiting at the junction. While it would be visible to drivers and cyclists moving through the one-way system, there is only a short distance between the junction and the proposed advertisement. Thus, the likelihood of a driver seeing multiple advertisements is low. Consequently, although the advertisement would be large, the risk of drivers and cyclist being distracted by it would be limited.

33. Nevertheless, buses and HGV are large vehicles that typically have more limited visibility to the side and rear than smaller vehicles. Given this and the increased risk of pedestrians stepping onto the carriageway or walking close to the edge of the carriageway to manoeuvre around the proposed Hub unit there would be an increased risk of collision between vehicles and pedestrians. Therefore, the proposed development would result in harm to public safety.
34. In respect of Appeals A and B, the proposed development would result in a detrimental impact on highway and pedestrian safety. Accordingly, it would conflict with Policy DM29 of the Local Plan and Policy T4 of the London Plan (2012). While the policies referred to above do not relate directly to advertisements and are therefore not determinative with regards to Appeal B, they seek to protect public safety by ensuring that development proposals do not have a detrimental impact on highway safety.

Other Matters

35. The appellant has highlighted their commitment to ensure that the standard of remediation and reinstatement of the public footpath is exemplary. However, the existing footway is in a reasonable condition and any remediation and reinstatement would only be required as a result of installing the proposed development. Moreover, in the event that Appeal B was allowed, the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 require any site used for the display of advertisements to be maintained in a condition that does not impair the visual amenity of the site.
36. While the proposed development may be compliant with other provisions of the development plan or Framework, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposed development.

Conclusion

37. Overall, I have found that the proposed development would have a harmful effect on the character and appearance of the area and its visual amenity, including harm to the significance of the CCCA and locally listed buildings. In respect of Appeal A, the harm to the significance of the CCCA is not outweighed by public benefits. The proposed development would also result in harm to the functioning of the public realm and highway and pedestrian safety. It would therefore conflict with the development plan taken as a whole.
38. I acknowledge the support given to the development of digital infrastructure by the Framework and other Government strategies and priorities. However, in this case, many of the proposed services would need to be disabled to avoid increasing the risk of crime. The resulting benefits arising from the provision of a defibrillator and the Hub unit's energy efficient design would not outweigh the harm I have identified, nor would they justify conflict with the development plan.
39. For the reasons above, and having had regard to all other matters raised, I therefore conclude that the appeals should be dismissed.

Hannah Guest INSPECTOR