



Appeal Decisions

Site visit made on 20 July 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Appeal A Ref: APP/G3110/W/22/3308262

Pavement o/s 138-140 London Road, Headington, Oxford OX3 9ED

- 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 of BT Telecommunications Plc against the decision of Oxford City Council.
 - The application Ref 22/01149/FUL, dated 29 April 2022, was refused by notice dated 11 August 2022.
 - The development proposed is described as proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of 2no. associated BT Kiosks.
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Appeal B Ref: APP/G3110/H/22/3308263

Pavement o/s 138-140 London Road, Headington, Oxford OX3 9ED

- 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 of BT Telecommunications Plc against the decision of Oxford City Council.
 - The application Ref 22/01150/ADV, dated 29 April 2022, was refused by notice dated 11 August 2022.
 - The advertisement proposed is described as 2no. digital 75" LCD display screens, one on each side of the Street Hub unit.
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Decision

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

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. To avoid repetition, while considering each on its merits, I have dealt with both in a single decision letter.
4. In respect of Appeal B, the Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as material considerations. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In determining this appeal the Council's policies have not therefore, by themselves, been decisive.
5. In respect of Appeal B in the banner heading, I have taken the description of the development from the application form; whilst different to the Council's decision notice it accurately describes the advertisement sought.

Main Issues

6. The main issues in respect of Appeal A are the effects of the proposed development on (i) the character and appearance of the area and (ii) highway safety.
7. The main issues in respect of Appeal B are the effects of the proposed advertisement on (i) the visual amenity of the area and (ii) public safety.

Reasons

Character and appearance / Visual amenity

8. The appeal site is located on London Road in a highly visible location on a main thoroughfare. The road is primarily lined with ground-floor retail uses and commercial buildings.
9. Located nearby are various forms of freestanding vertical signage along London Road. These include highway signage and directional signs. Additionally, within the setting of the appeal site there are various other elements of street furniture, including bollards, bike stands, litter bins, post boxes, A-board/pavement business signs, seating and tables for customers and public benches. This part of the street is also lined by other vertical features including lighting columns, with projecting banners, and trees. There is a significant amount of shop signage on this section of the road, although many premises are not generally illuminated and those that are are relatively low-key in appearance forming part of the facia of the business.
10. The proposed Street Hub would be sited on the widest point of the pavement on this section of London Road. Albeit relatively slender, the structure would be wide and tall, at almost 3m in height, and would feature high-definition illuminated changing advertisements. It would have a bright and monolithic appearance quite unlike any of the street furniture already in place. The nature of the advertisement would also differ to that of the shop signage, which is largely not illuminated and is static. As a result, existing street or shop front lighting would not appear the same as the proposal or have the same effect. The development would therefore introduce a large, prominent and discordant feature into a part of the pavement which is currently open, consequently creating additional street clutter in the process.
11. From the evidence presented by both the main parties, there appears to have previously been 2no BT kiosks located on the pavement outside 136 London Road. However, at the time of my visit, no such kiosks were evident, and the pavement had been made good. In any event, the removal of either or both of the kiosks that appear to have been situated against a wall to the side of the pavement would not constitute a like-for-like replacement. The pictures provided by the appellant appear to show the kiosks in a relatively well-maintained condition such that their removal would not enhance the streetscene. As such, their removal would not have overcome the visual harm of locating the Street Hub in the proposed location.
12. The Council have identified there is no need for the structure, advertising or other functions, and the applicant has not submitted enough convincing information or data to suggest otherwise. However, from the policies put before me, only design rationale is sought from them. As such, I find there is no overall requirement to demonstrate a need for the appeal schemes.

Additionally, the Council have raised concerns related to other proposed BT Street Hubs. No other Street Hubs were visible within the vicinity of the appeal site and I have based my decision on the merits of the appeals and my observations on site.

13. In respect of Appeal A, I therefore conclude that the proposal would unduly harm the character and appearance of the area. In this regard, it is contrary to Policies DH1 and DH6 of the Oxford Local Plan (OLP) and Policy CIP1 of the Headington neighbourhood plan. These policies seek, among other things, to ensure that development is of a high quality design that responds to and enhances the character and design of its surroundings. It is also contrary to Paragraph 136 of the National Planning Policy Framework (the Framework), which indicates that the quality and character of a place can suffer when advertisements are poorly sited and designed.
14. In respect of Appeal B, as an integral part of the proposed Street Hub, I conclude that the proposed advertisement would unduly harm the visual amenity of the area. I have taken into account the policies of the development plan, the Framework so far as they are material, and where identified the scheme would conflict with the policies referred to above in this respect.

Public / highway safety

15. The Street Hub would be located on the widest part of the pavement on this section of London Road set in from the kerb edge. This position would allow pedestrian movements to remain free-flowing, which would not occur if located on the narrower section of pavement. However, the Street Hub would be situated in front of a lay-by which provides a series of parallel parking and loading bays for nearby businesses.
16. I observed on my visit, mid-morning on a weekday, this section of London Road is situated in a particularly busy area in terms of pedestrian and vehicle movements. Furthermore, given the presence of the lay-by, I witnessed that this section of the pavement was heavily used by pedestrians to cross the road to access the bus stops and shops.
17. The width of the Street Hub in its proposed position would considerably reduce cyclist and driver visibility of pedestrians who are seeking to cross the road in this location when positioned behind the Street Hub. In addition to reduced visibility, cyclists and drivers would also face distraction from the LED advert screens that would be changing the displayed images. Furthermore, drivers exiting the parking and loading bay spaces closest to the Street Hub would have to not only be aware of pedestrians seeking to cross the road behind the Street Hub but also with the added distraction of the changing images and the vehicles approaching from the rear. In trying to navigate these obstacles, drivers would have to slow down or stop as an extra precaution that would in turn harm the free flow of traffic in this area. Therefore, the proposals would result in an obstruction that would unacceptably impede visibility, distract drivers and harm the free flow of traffic in this busy commercially orientated area.
18. I have considered all users of the public highway, including those with a 'protected characteristic' for the purpose of the Equality Act 2010 and the related Public Sector Equality Duty. I am satisfied that anyone with a protected characteristic would not be disproportionately affected by the appeal scheme

and would when using the pavement, be able to see and navigate around the Street Hub without any undue restriction to use the adjacent bench.

19. Reference is made by the appellant to the proposed development and advertisement being compliant with Transport for London's (TfL) policy document 'Guidance for Digital Roadside Advertising and Proposed Best Practice – 2013'. However, I have found that the proposal would reduce visibility and, therefore, sightlines conflicting with this guidance.
20. As stated above, the existing kiosks have been removed. Notwithstanding this, based on my observations and the evidence presented, the location of the kiosks was unlikely to hinder pedestrian flows such that their removal would attract more than little weight in favour of the proposals.
21. I therefore conclude that the proposed development and advertisement would have an unacceptable impact on highway and public safety. In this regard Appeal A is contrary to Policies M1, DH6 and RE7 of the OLP. These policies seek, among other things, to ensure development does not have unacceptable transport impacts, the urban environment is permeable and safe to walk through and public safety would not be prejudiced. It is also contrary to the Framework, which seeks to create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.
22. In respect of Appeal B, as an integral part of the proposed Street Hub I conclude that the proposed advertisement would unduly harm public safety. I have taken into account the policies of the development plan, the Framework so far as they are material, and where identified the scheme would conflict with the policies and guidance referred to above in this respect.
23. The Council have identified conflict with paragraph 109 of the Framework. As this relates to providing adequate overnight lorry parking facilities, I find no overall conflict with this paragraph on public and highway safety grounds.

Other Matters

24. I note that the appellant actively sought to engage with the Council prior to submitting the applications and the proposals may form part of a wider strategy by the appellant. However, in terms of the planning merits of the appeals, this is a neutral matter, which does not weigh in favour of the proposals.
25. The Council have stated that the proposed development is not considered to be telecommunication equipment. However, based on the services it would provide, including calls and ultrafast wi-fi access and in the absence of any substantive evidence to demonstrate otherwise, I find it would be telecommunications equipment.
26. I acknowledge the public benefits highlighted by the appellant, including environmental and other data collection, ultrafast wi-fi access, direct emergency calls, public information displays and wayfinding. I also recognise the economic and social importance of advanced, high quality and reliable telecommunications, and the support in the Framework for the expansion of electronic communications networks. I attach significant weight to these benefits. However, given the limited scale of the scheme, such benefits would be relatively modest and do not outweigh the harms I have found above.

27. I have had regard to the example provided under ref:132472/FO/2021 and appeal decision ref: APP/N5660/W/18/3199793. However, limited details have been provided and it has not been possible to make a meaningful comparison with the proposals before me, including with respect to the nature of the street scene and public/highway safety. Accordingly, those examples do not change my findings.

Conclusion

28. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that both Appeal A and Appeal B should be dismissed.

A Hickey

INSPECTOR