



Appeal Decision

Site visit made on 1 August 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 12th September 2023

Appeal A Ref: APP/T5150/W/22/3310416 Pavement o/s 216 Ealing Road, Wembley HA0 4QG

- 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 British Telecommunications Plc against the decision of the Council of the London Borough of Brent.
 - The application Ref: 22/2706 dated 21 July 2022, was refused by notice dated 23 September 2020.
 - The development proposed is the removal of 2 no. phone kiosks from the street scene in Brent and the installation of 1 no. BT Street Hub Units.
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Appeal B Ref: APP/T5150/H/22/3310417 Pavement o/s 216 Ealing Road, Wembley HA0 4QG

- 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 British Telecommunications Plc against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/2707, dated 21 July 2022, was refused by notice dated 23 September 2022.
 - The advertisement proposed is the display of two digital screens on either side of a BT street hub.
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Decisions

1. Appeal A is allowed and planning permission is granted for the removal of 2 no. phone kiosks from the street scene in Brent and the installation of 1 no. BT Street Hub Units on the pavement outside 216 Ealing Road, Wembley HA0 4QG in accordance with the terms of application Ref: 22/2706 dated 21 July 2022, subject to the conditions set out in the Schedule attached to this Decision.
2. Appeal B is allowed and express consent is granted for the display of two digital screens on either side of a BT street hub as applied for and in accordance with the terms of application Ref: 22/2707, dated 21 July 2022. 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 set out in the Schedule attached to this Decision.

Preliminary Matters

3. Appeal A relates to the refusal of planning permission for the proposed hub. Appeal B is in respect of refusal of advertisement consent for the digital signage which would be an integral part of the proposed hub sought under Appeal A. I have considered both on their individual merits. However, to avoid repetition, I have dealt with the relevant issues concurrently.
4. 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) make it clear that advertisements are subject to control only in the interests of amenity and public safety. While not decisive, I have taken relevant policies into account as a material consideration.

Main Issues

5. The main issues in these appeals are:
 - a) the effect of the proposals on the character and appearance and visual amenity of the area, including proposed lighting, and
 - b) the effect of the proposal on public safety.

Reasons

Issue a) Visual Amenity

6. The appeal site relates to pavement on the west side of Ealing Road, between the junctions with Bowrons Avenue to the north and Braemar Avenue to the south. Ealing Road is a London Distributor Road and a bus route. This is in a town centre location with shops and commercial premises along this side of Ealing Road. The buildings include a variety of scales and styles, including some modest two storey buildings, but where the proposed hub would be sited, the buildings are taller and more substantial in scale.
7. The proposed hub would be sited almost centrally within the width of the pavement, and broadly between two mature street trees. It would be wider and taller as well as more solid in form and appearance than the double phone boxes it would replace but would, overall, take up a smaller area of the pavement. It would also be seen in the context of the street trees which would flank it on either side and against the backdrop of the taller and more substantial buildings on Ealing Road, turning the corner into Braemar Avenue.
8. The scale of the hub and display would be moderated by the space about it and would not appear overly large or visually prominent in the context of the surrounding buildings. Although it would be viewed as a notable feature, as it is intended to be, it would respect the human scale of the streetscape and would not be unduly prominent or obtrusive within it.
9. The proposal includes for the removal of the two existing phone kiosks in broadly the same location. Their removal will be necessary as the proposed hub would be sited on part of the same footprint. Furthermore, their removal would assist in removing unnecessary street furniture from the street scene and the phone boxes are now in a poor state of repair and detract from the local townscape.

10. In respect of the levels of illumination which particularly relates to Appeal B, the proposal indicates that both screens would automatically dim at night to 600 cdm-2. The Council has contended that this is considered too high but without elaborating their concerns.
11. The light level would fall within the recommendations set out under the Institute of Lighting Professionals - Professional Lighting Guide No.5 2015: *The Brightness of Illuminated Advertisements*. Furthermore, the illuminated adverts would be seen in the context of a street scene which is generally well lit, including from street lighting, commercial premises as well as advertisements associated with existing bus shelters. I do not therefore share the Council's concerns that the illumination levels, particularly at night time, would be too high.
12. With regard to Appeal A, for the reasons given above, the proposal would respect the character, appearance and visual amenity of the locality. It would comply with Policies DMP1 and BD1 of the Brent Local Plan, and the guidance contained in Brent's Supplementary Planning Document 1 and Supplementary Planning Guidance 8 as well as the Framework with particular reference to Section 12, insofar as they seek to ensure good design that respects the local context.
13. With regard to Appeal B, for the reasons given, the advertisement would respect the visual amenity of the area. I have taken into account the policies of the development plan insofar as they are material, and the scheme would comply with those policies referred to above in this respect.

Issue b) Public Safety

14. This is a town centre location and at the time of my visit, the local area was busy. The overall width of the pavement is shown as some 6.6m and the hub would be approximately sited halfway between the building edge and the kerb.
15. The Council's reason for refusal in respect of public safety refers to unnecessary street clutter which would restrict pedestrian movement. However, I have noted that the Council, including the Transportation Officer, in their submissions have concluded that the proposed hub would not unduly obstruct pedestrian movement, with specific regard to the width of the available pavement on either side.
16. I consider that the proposed hub would require pedestrians to manoeuvre either side of the proposed structure, within a busy part of the town centre. However, and although slightly narrower than the proposed hub, the pavement is currently constrained by the double phone boxes also placed centrally on the pavement and which would be removed. Furthermore, the street trees are generally planted 'centrally' within the width of the pavement and so the pavement within the immediate vicinity of the proposed hub is generally divided into two sections, one closer to the shops and one closer to the kerb. Taking account of all these factors and in particular the remaining available pavement width either side of the proposed hub, I conclude that there would be no material harm to public safety, with particular reference to pedestrian flows and resultant pedestrian safety.
17. Whilst I understand the Council's overall objective to reduce unnecessary street furniture, each proposal must be judged on its individual merits. In the

particular circumstances of this case and taking into account the removal of the existing double phone boxes, I have found that the proposals would be acceptable and would not cause a material obstacle or hindrance to pedestrian movements.

18. With regard to Appeal A, I therefore conclude that the proposals would not result in harm to public safety. There would be no conflict with Policies DMP1 and BT1 of Brent's Local Plan in this regard. The reason for refusal also refers to TFL's Pedestrian Comfort Guidance, which is a guide for those involved in the planning of London's streets but the absence of reference to this guidance in the Appellant's submission is not in my view determinative in my decision.
19. With regard to Appeal B, for the reasons given, the advertisement would not result in harm to public safety. I have taken into account the policies of the development plan insofar as they are material, and the scheme would comply with those policies referred to above in this respect.

Other Considerations

20. The Appellant has referred me to a number of other kiosks and street hubs in the vicinity and further afield. Each proposal must be considered on its individual merits, but in so far as the information has been made available to me, I have taken them into account.
21. The Appellant has also raised concerns that the Council has not been prepared to enter pro-active discussions on this and other hub proposals within the Borough, but my decisions are based solely on the planning merits of the appeals before me. The concerns raised would need to be directed to the Council.

Conditions

22. The Council has not proposed any conditions in respect of either appeal. The Appellant has indicated that matters pertaining to the advertisement appeal with regard to speed of change between adverts and illumination can be controlled through appropriate conditions and has itself promoted a number of conditions.
23. In respect of the proposed removal of the existing phone boxes and notwithstanding that it is referenced in the description of development, I consider that a condition should be imposed to ensure their removal before the proposed hub is brought into operation to avoid unnecessary street clutter. The Appellant has suggested removal within 3 months of the commencement of development, but I consider it would be more straightforward and less ambiguous to link it to the commencement of the operation of the new street hub and that this timing for the removal of the existing kiosks can be concurrent with the new hub coming into operation. In addition to the standard condition limiting the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
24. The advertisement consent would be subject to the 5 standard conditions, as set out in the Regulations. In addition, in the interests of visual amenity and public safety, restrictions as to the nature and brightness of displayed images, their duration and transition are necessary.

25. Although these conditions have not been seen by the Appellant, I am satisfied that they broadly follow those proposed by the Appellant and that no party would be prejudiced by their imposition.

Conclusion

26. For the reasons given above and having regard to all other matters raised, I conclude that Appeals A and B should be allowed.

L J Evans

INSPECTOR

Schedule of Conditions

Conditions in relation to Appeal A: Ref: APP/T5150/W/22/3310416

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents: BREN104 001 Rev A; BREN104 002 Rev A; BREN104 003 Rev A;
3. Prior to the hub and integral advertisements first being operated, the existing double BT Kiosk (Kiosk Phone Nos 02089000865 and 02089000849) on the pavement outside 216 Ealing Road, Wembley HA0 4QG shall have been removed and the pavement reinstated.

Additional Conditions in relation to Advertisement Consent under Appeal B: Ref: APP/T5150/H/22/3310417

4. The intensity of the illuminance of the two digital display screens shall be no greater than 600Cd/m² between dusk and dawn.
5. The digital screen shall not display moving or apparently moving or audible images (including animation, flashing, scrolling three dimensional, intermittent or video elements); nor shall there be a period of blending between advertisements.
6. The minimum display time for each piece of content on the digital display screens shall be 10 seconds.
7. No visual effects of any kind shall be permitted to accompany the transition between any two successive images. The replacement image must not incorporate any fading, swiping or other animated transitional method.
8. All illumination shall be non-intermittent unless otherwise agreed in writing by the local planning authority.