



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/22/3310414

Pavement o/s 234 Ealing Road, Wembley HA0 4BP

- 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: 22/2700 dated 21 July 2022, was refused by notice dated 23 September 2022.
 - 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/3310415

Pavement o/s 234 Ealing Road, Wembley HA0 4BP

- 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 22/2701, 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 dismissed.
2. Appeal B is dismissed.

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 LCD 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 proposal 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 which 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 and the general locality was very busy at the time of my site visit. The buildings are of relatively modest scale being no more than two stories in the vicinity of the appeal site on the west side of Ealing Road. A number of the shops, including those in the vicinity of the proposed hub, display goods on the pavement outside of the shops, under licence.
- 7. The proposed hub would be sited towards the kerb edge, a little distance to the south of a street tree. Although the existing phone box would be removed, the proposed hub would be deeper, more solid and noticeably taller than the existing. In the context of the available width of the unobstructed pavement and the modest height of the premises along Ealing Road, in the vicinity of the site, I consider that the proposed hub would appear as a very bulky and solid structure. I appreciate that it is intended to be seen as a notable feature, but in the context of the modest scale of the surrounding townscape, the proposed hub would be overly dominant and visually intrusive in the local context.
- 8. 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.
- 9. 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.
- 10. However, my finding in respect of the proposed levels of illumination does not override my findings on the harm to visual amenity.
- 11. With regard to Appeal A, for the reasons given above, the hub would have a significant adverse effect on the character and appearance of the area. It would fail to respect visual amenity. It would fail to 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.

12. With regard to Appeal B, for the reasons given, the advertisement would unduly harm 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 fail to comply with those policies referred to above in this respect.

Issue b) Public Safety

13. Although the overall depth of the pavement appears on plan form to be relatively generous, the usable width of the pavement is materially reduced because many of the retail and commercial premises display goods, under licence, in front of their stores. This is a town centre location and at the time of my visit, the local area was busy.
14. I have taken into account the other structures and street furniture in the local area, and that the existing phone kiosk would be removed. However, by virtue of its size and taking into account the remaining width of unobstructed pavement width, the proposed hub would unacceptably reduce the width of unencumbered pavement. The reduced width of the available pavement space together with the scale and solid form of the proposed hub would create an obstacle for pedestrian movement in the vicinity and would harm pedestrian safety.
15. With regard to Appeal A, and for the reasons given above, I therefore conclude that the proposal would obstruct pedestrian flows and would harm public safety. This would conflict with Policies DMP1 and BT1 of the 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.
16. With regard to Appeal B, for the reasons given, the advertisement would unduly harm public safety. I have taken into account the policies of the development plan insofar as they are material, and the scheme would fail to comply with those policies referred to above in this respect.

Other Considerations

17. The proposal would provide a range of services, including, amongst others, wifi, device charging, public messaging facilities, free calls to landlines, and wayfinding contributing towards a 'smart city'. It would be powered by renewable energy, would generate minimal waste and would include features to prevent crime and anti-social behaviour. It would provide a platform for other technologies such as environmental conditions and key data and would support businesses and the vitality of the area.
18. The proposal includes for the removal of two phone boxes, one in close proximity to the proposed hub on Ealing Road, and the other further away near the junction of Burns Road with Ealing Road. Whilst the removal of any redundant structure from the street scene is to be welcomed, in respect of the

latter phone box proposed to be removed, it is too far away and unrelated to the current proposal to be afforded weight in my decision.

19. Taking all of these factors into account including the support in the Framework and the London Plan for high quality communications, as well as the Council's own Digital and Inclusive Growth Strategies, these public benefits would be modest. They would not outweigh the harm I have concluded both to visual amenity and public safety under both Appeal A and Appeal B.
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. However, the circumstances do not appear to compare directly with the situation before me in these appeals and they do not therefore persuade me to a different view.
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.

Conclusion

22. For the reasons given above and having regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

L J Evans

INSPECTOR