
Appeal Decisions

Site visit made on 30 August 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2023

Appeal A: Appeal Ref: APP/N5660/W/23/3316144

Pavement Outside 238 Kennington Lane, London SE11 5RD

- 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 (J C Decaux UK Limited) against the decision of the Council of the London Borough of Lambeth
 - The application Ref 21/04838/FUL, dated 15 December 2021, was refused by notice dated 23 December 2022.
 - The development proposed is the replacement and upgrade of an existing illuminated and advertised enclosed telephone kiosk with a multifunctional communication hub including advertisement display.
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Appeal B: Appeal Ref: APP/N5660/Z/23/3316145

Pavement Outside 238 Kennington Lane, London SE11 5RD

- 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 (J C Decaux UK Limited) against the decision of the Council of the London Borough of Lambeth
 - The application Ref 21/04839/ADV, dated 15 December 2021, was refused by notice dated 23 December 2022.
 - The development proposed is the display of one internally illuminated LCD display as part of a new communication hub unit.
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Decision

1. Appeal A is allowed and planning permission is granted for replacement and upgrade of an existing illuminated and advertised enclosed telephone kiosk with a multifunctional communication hub including advertisement display on the pavement outside 238 Kennington Lane, London SE11 5RD in accordance with the terms of application Ref 21/04838/FUL, dated 15 December 2021, subject to the conditions set out in a Schedule attached to this Decision.
2. Appeal B is allowed and express consent is granted for the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the 5 standard conditions set out in the Regulations and the additional conditions set out in the Schedule attached to this Decision.

Procedural Matters

3. The appeals relate to the same site and the same proposed development, namely a multifunctional communications hub which, amongst other things, would have an illuminated digital advertisement display. To avoid unnecessary

repetition, the 2 appeals have been dealt with in a single Decision letter but the appeals themselves have been considered based upon their own merits.

4. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) require that applications for the display of advertisements are considered in terms of amenity and public safety. Although the reasons for refusal for Appeal B refer to policies contained in the Lambeth Local Plan 2020-2035 (LLP) and the guidance contained in the *Lambeth Advertising and Signage Guidance* (the Guidance), they are material considerations rather than being decisive in the determination of this appeal.
5. For clarity, the description for Appeal B has been adopted from the Council's Decision Notice which specifically refers to the proposed advertisement.

Main Issues

6. It is considered that the main issue for Appeal A is the effect of the proposed development on the character and appearance of the streetscene. For Appeal B, the main issue is the effect of the proposed advertisement on the visual amenity.

Reasons

7. The appeal site is located on Kennington Lane in the footway in-front of a petrol filling station and close to traffic light controlled junctions one of which provides access to a car park associated with a Tesco supermarket. Above the supermarket are residential apartments which overlook the road. The supermarket and apartments are part of the Oval Village scheme which has a contemporary architectural appearance. The footway adjacent to Oval Village appears to have been constructed to be part of the public realm associated with this scheme. This contrasts with the footway to the north side of the road which has a more functional appearance.
8. Adjacent to the petrol filling station are commercial buildings, albeit there are residential properties on the same side of the road but these are located away from the appeal site. For these reasons, this part of Kennington Lane has a mixed residential and commercial character rather than the type of residential character referred to in the *Guidance*.
9. The proposed development includes the erection of a multifunctional communications hub which would replace an existing telephone kiosk. This kiosk has a larger footprint than the appeal scheme. In addition to the provision of telecommunication services such as ultrafast Wi-Fi and free phone calls to landlines, the hub would also include a defibrillator and an illuminated digital advertisement panel that would be capable of promoting Council initiatives.
10. The Council has also identified that there is an extant planning application which would involve the redevelopment of the petrol filling station for student accommodation and include the removal of the existing kiosk (Ref 22/02522/FUL). However, this planning application has yet to be determined and, as such, this appeal has been assessed on its own circumstances which includes the kiosk being in-situ.
11. Adjacent to the site, the footway is wide and already includes a range of street furniture, comprising telephone kiosks (including the one which the proposed

hub would replace), bus shelters with static advertisements, trees, lamp posts, signs and the traffic lights with their associated control boxes.

12. With the proposed hub replacing the existing kiosk there would not be a material change to the overall quantum of street furniture which would result in an unacceptable cluttering effect which might otherwise adversely harm the character and appearance of the streetscene along this part of Kennington Lane. The proposed hub would also be sited adjacent to the retained telephone kiosk. Further, because of its siting and design, the proposed hub would appropriately integrate into the mixed character and appearance of the streetscene along this side of the road rather than be a particularly incongruous or conspicuous addition.
13. The proposed illuminated digital advertisement display would not replicate the display associated with the existing kiosk. However, the proposed digital display would be seen against the context of a well-lit petrol filling station and would not be an incongruous addition to the streetscene by reason of its illumination. Suitable conditions could be imposed which would control the brightness and nature of the advertisements displayed at night to avoid unacceptable harm to the character and appearance of the streetscene.
14. By reason of orientation and the imposition of suitable conditions, the proposed display would avoid being particularly noticeable in the outlook of the occupiers of the apartments located within the Oval Village scheme and their living conditions would not be adversely harmed in such a manner to conflict with the *Guidance*.
15. For the reasons given, it is concluded that for Appeal A the proposed development would not cause unacceptable harm to the character and appearance of the streetscene and, as such, it would not conflict with LLP Policies Q5, Q6 and Q17. Amongst other matters, these policies require development to respect local distinctiveness by responding to positive aspects of the locality and provide a safe, attractive, uncluttered and co-ordinated public realm. These policies also refer to street furniture being appropriate for its site and its immediate locality and for advertisements not adding to unacceptable street clutter and being integrated into their context. For the same reasons, it is concluded that Appeal B would not harm the visual amenity of the area.

Other Matters

16. Residents have raised a number of concerns most of which have been addressed under the main issues. There are no reasons to disagree with the assessment of the Highway Officers and TfL concerning the absence of harm being caused to either public safety or the safety of other highway users.
17. The need for the proposed hub has been identified but the appeal scheme would replace an existing kiosk rather than introduce additional telecommunications equipment. The fear of crime has been raised but no specific evidence that this is a particular issue in this locality has been provided, particularly in circumstances where there is already an existing kiosk. Concerns about energy use are, at least in part, addressed by the energy efficient design of the hub and the appellant's corporate commitment to using energy from renewable sources.

Conditions

18. The Council has suggested several conditions in the event these appeals succeed which have been assessed against the tests in the National Planning Policy Framework and the Planning Practice Guidance.
19. For Appeal A, for reasons of clarity it is necessary for the approved scheme to be defined, including the management plan.
20. For Appeal B, the advertisement consent would be subject to the 5 standard conditions, as set out in the Regulations. As already identified and in the interests of amenity, restrictions as to the nature and brightness of displayed images, their duration and transition are necessary. However, there is no clear justification for the level of illumination being less than 600 cd/sqm identified by the appellant for hours of darkness which is also maximum level referred to in the ILP guidance *The Brightness of Illuminated Advertisement*. Other conditions relating to the removal of the advertisement display are not considered to be necessary and securing the erection of the proposed development in accordance with the approved drawings has been addressed under Appeal A.

Conclusion

21. For the reasons given, it is concluded that Appeal A and Appeal B should be allowed.

D J Barnes

INSPECTOR

Schedule of Conditions

Appeal A:

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 and operated in accordance with the following approved plans and documents: Site Plan and Images; Hub Unit Details and Unit Management Plan (October 2020).

Appeal B:

1. The maximum luminance levels of the advertisement display hereby approved shall not exceed 600 cd/sqm during hours of darkness.
2. No visual effects of any kind shall be permitted to accompany the transition between any two successive displayed adverts or images. The replacement advert or image must not incorporate any fading, swiping or other animated transitional method.
3. The minimum time between successive displayed adverts or images shall be 10 seconds.
4. The digital advertising panel shall not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements) or special effects (including noise, smell, smoke and exposed cold cathode tubing) of any kind during the time that any advert is displayed.