



Appeal Decisions

Site visit made on 21 August 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2023

Appeal A Ref: APP/Y1945/W/22/3302244

Pavement outside 244 St Albans Road, Watford WD24 4AX

- 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, BT Telecommunications Plc, against the decision of Watford Borough Council.
 - The application Ref 22/00475/FUL, dated 29 March 2022, was refused by notice dated 1 June 2022.
 - The development was originally 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/Y1945/H/22/3302245

Pavement outside 244 St Albans Road, Watford WD24 4AX

- 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, BT Telecommunications Plc, against the decision of Watford Borough Council.
 - The application Ref 22/00476/ADV, dated 29 March 2022, was refused by notice dated 1 June 2022.
 - The advertisement was originally 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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Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. Since the applications were refused, the Watford Local Plan 2021-2038 (2022) (LP) has been adopted. Consequently, the policies contained within the Watford District Plan 2000 and the Watford Local Plan Core Strategy 2006-2031 no longer form part of the adopted development plan. The Council has highlighted that policies QD6.2, QD6.3 and QD6.4 of the LP are relevant to these appeals, and the appellant was given the opportunity to comment on the updated policy position.
4. The two appeals are located at the same site. Appeal 'A' concerns the refusal of planning permission to erect a BT street hub. Appeal 'B' concerns the refusal of express consent to display advertisements on the street hub. I have considered

each on its individual merits, but I have combined both appeals into a single decision as they are intrinsically linked and raise similar issues.

5. Similar appeals have also been submitted in relation to Watford Junction train and bus stations¹. I have determined these appeals too. The nature of the appeals overlap, but for clarity I have issued a separate decision in relation to each appeal site.
6. Regulation 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) states that a local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety, taking into account - (a) the provisions of the development plan, so far as they are material; and (b) any other relevant factors. My determination of Appeal B is made on the same basis.

Main Issues

7. The main issues, for both appeals, are the effect of the proposal on:
 - the character and appearance/ amenity of the area, and
 - public safety.

Reasons

Character and appearance/ amenity

8. The appeal site is an area of pavement on St Albans Road, close to Cromer Road. The pavement contains bollards, plant pots, street trees, street lights, an existing BT telephone booth (to be removed) and also a relatively new telephone kiosk. St Albans Road is a local shopping frontage characterised by two and three-storey buildings with retail/commercial units at ground floor and residential units above.
9. The proposals involve the replacement of two long-established items of street furniture, one of which is adjacent to the proposed site. The appeals form part of an overarching project to remove all the existing BT kiosks in the Watford area, as part of a process of removing stock that has fallen into disrepair and improving the public realm by upgrading them with the modern street hub. The appellant asserts that in order to accommodate the equipment necessary to provide the immediate and future benefits to the area, the unit has to be the height and design that is proposed.
10. The Council states that the existing kiosk, as telecommunication infrastructure installed under Permitted Development legislation, would be subject to a condition under that legislation ensuring that the installation is removed when redundant. However, the appellant highlights that BT has an Electronic Communications Code license and Universal Service Obligation to provide a constant public service.
11. Although the proposal would remove the existing telephone booth, which has a larger footprint than that proposed, it is situated on a wider section and opposite side of the pavement. Therefore, the existing telephone booth is in a less prominent location. As a result of its siting, it also has limited association with the nearby modern telephone kiosk. In contrast, the proposed street hub

¹ APP/Y1945/W/22/3302240 and APP/Y1945/H/22/3302241

would be situated towards the road, similar to the existing modern telephone kiosk. Thus, the proposal is not a direct replacement, as asserted by the appellant.

12. The proposal would introduce a tall, solid structure. It would result in two large items of street furniture, situated in prominent locations, in close proximity which are not a prevalent characteristic of this part of St Albans Road. The height of the street hub would also have a poor relationship with the nearby shopfronts. By virtue of the proposed street hub's siting, height, illuminance, in association with the nearby modern telephone kiosk, it would result in a dominant feature that would unduly harm the character and appearance of the area. Thus, the proposal before me would be more harmful than the fall-back position of the existing telephone booths being retained.
13. In terms of the advertisement element of the proposal, there are numerous examples of advertisements within the local area. These include the existing telephone booth, telephone kiosk and advertisements associated with the nearby uses. I also acknowledge that digital display panels are seen across the Borough, including on bus shelters and as freestanding panels.
14. The displays and changing images on both sides would exacerbate the prominence of the hub. Furthermore, as a result of the siting of the proposed street hub, and illuminated displays with changing images to both sides, the proposal would result in a more prominent form of advertisement than the existing telephone booth. In addition, the combination of the advertisement associated with the existing telephone kiosk and proposed street hub would result in two large structures displaying prominent advertisements in close proximity.
15. The appellant considers that the New World Payphone development² adjacent to the proposed site sets a precedent. However, that kiosk has a more traditional design with a telephone to one side, and advertisement on the opposite side. My attention has also been drawn to other similar developments³ that are broadly the same height and size as the proposed street hub, and did not involve direct replacements. I do not have full details of those cases. However, the context of the sites differ, and the highlighted decisions do not outweigh the harm I have found. The approved applications do not set a precedent and I have considered the appeal proposal on its own merits.
16. For the reasons given above, the street hub would be poorly sited and designed, and would fail to make a positive contribution to the area. Consequently, in relation to Appeal A, the proposal would be harmful to the character and appearance of the area. In this regard, the proposal would conflict with Policies QD6.2, QD6.3 and QD6.4 of the LP. These seek, amongst other things, to ensure public realm is attractive and new development should make a positive contribution to the identity and character of the local area. It would also conflict with paragraphs 134 and 136 of the National Planning Policy Framework (the Framework). These state that development that is not well designed should be refused, and the quality and character of places can suffer when advertisements are poorly sited and designed.

² 16/01644/ADV

³ Including 18/00079/ADV and 18/00080/ADV

17. With regards to Appeal B, the proposal would have an unacceptable effect on the amenity of the area. The provisions of the development plan, so far as they are material, have been considered. Given I have concluded that the proposal would harm amenity, Appeal B would also conflict with the development plan and paragraph 136 of the Framework.

Public safety

18. The proposal would be sited on the pavement, close to bollards, plant pots, street trees, street lights, and telephone kiosk. The Council highlights that St Albans Road has undergone significant environmental improvement in recent years to improve highway pedestrian safety and convenience, and there are further projects.
19. At the time of my site visit there were limited pedestrians using this section of pavement and there were no vehicles parked on the pavement. However, I recognise this was only a snapshot in time. It appears that the bollards are a relatively new addition to the pavement. Given the location of the nearby bollards and a street light, it is unlikely that vehicles would park on this part of the pavement. Furthermore, the appellant has drawn my attention to the Highway Code which states that you must not park partially or wholly on the pavement in London and should not do so elsewhere unless signs permit it. Occupiers of the nearby units have also changed since the Council determined the planning application. For example, at the time of my site visit, Universal Food Stores Watford had been replaced by Legacy Cutting Room.
20. The appellant states that they are happy to work proactively with the Transport and Infrastructure Manager to ensure that the street hubs are installed correctly in a professional manner, and would consider a planning condition to address their concerns. Furthermore, my attention has been drawn to an appeal decision⁴, to highlight a lack of evidence relating to highway safety issues, and the impact on pedestrian movement is similar to other approved schemes⁵.
21. The proposal would reduce the width of the footway and would affect the flow of pedestrians. It could also encourage people to congregate in this area when using the street hub. Nevertheless, the street hub would be situated towards the edge of the pavement and there would still be sufficient space to allow pedestrians to walk along the footway without significant obstruction. There is also no robust evidence to demonstrate that the nearby uses result in high pedestrian movement.
22. The screens would display a series of static images. The method of illumination and display would be in accordance with well-established parameters and professional guidance, which could be controlled by planning conditions. Based on the evidence submitted, I am satisfied that the proposal, including the advertisements, would not have an adverse impact on the safety and convenience of the footway for pedestrians and cyclists.
23. Consequently, in relation to Appeal A, the proposal would not have an adverse impact on public safety. Accordingly, in this regard, the proposal would accord with Policies QD6.2, QD6.3 and QD6.4 of the LP. These seek, amongst other things, to ensure public realm is safe and convenient, as well as complying with

⁴ APP/Z4310/W/18/3205104

⁵ Including 18/00079/ADV

design principles. It would also comply with Policies 5 and 7 of the Hertfordshire's Local Transport Plan 2018-2031 (2018). These seek, amongst other things, to ensure new development proposals are safe and support the delivery of the Local Transport Plan objectives as well as encourage and promote walking. In addition, in this regard, the proposal would comply with paragraph 136 of the Framework which states that the quality and character of places can suffer when advertisements are poorly sited and designed.

24. With regards to Appeal B, the proposal would not have an adverse impact on public safety. The provisions of the development plan, so far as they are material, have been considered. Given I have concluded that the proposal would not have an adverse impact on public safety, Appeal B would also comply with the development plan and paragraph 136 of the Framework, in this regard.

Other Matters

25. The appellant has drawn my attention to various other matters. These include social, economic, environmental, and technological benefits (including through providing free Wi-Fi, 5G cell coverage, phone calls, wayfinding feature, device charging, features to contact the emergency services, public messaging capabilities, a platform for interactive technologies, increase active travel modes, encourage greater access to public transport and a sense of safety). In addition, pre-application advice, parts of the Framework (including paragraphs 114, 115, 126, 130 and 136), local planning policy (including superseded Policy WBC1 and strategic Objective 1), Hertfordshire's Local Transport Plan, and Healthy Streets Approach.
26. The Council highlight that Watford already benefits from free Wi-Fi. Nonetheless, I recognise that paragraph 118 of the Framework states that the planning process should not seek to prevent competition between different operators or question the need for an electronic communications system. The other matters highlighted (including benefits and numerical reduction in street clutter), on balance, would not outweigh the harm I have found.

Conclusion

27. Although I have found that the proposal would not have an unacceptable impact on public safety, the scheme would harm the character and appearance/ amenity of the area to which I attach significant weight. For the reasons given above, having considered the development plan, the Regulations, the approach in the Framework, and all other material considerations, I conclude that the appeals do not succeed.

L Wilson

INSPECTOR