
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: 14 September 2023

Appeal A: Appeal Ref: APP/N5660/W/23/3316138
Pavement Outside 269-308 Surridge Court, Clapham Road,
London SW9 9AE

- 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 Johnson (J C Decaux UK Limited) against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 21/04830/FUL, dated 15 December 2021, was refused by notice dated 27 January 2023.
 - 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/23/3316139
Pavement Outside 269-308 Surridge Court, Clapham Road,
London SW9 9AE

- 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 Johnson (J C Decaux UK Limited) against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 21/04831/ADV, dated 15 December 2021, was refused by notice dated 27 January 2023.
 - The development proposed is the display of one internally illuminated LCD display as part of a new communications 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 269-308 Surridge Court, Clapham Road, London SW9 9AE in accordance with the terms of application Ref 21/04830/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 London Plan (LP), 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 issues for Appeal A are the effects of the proposed development on (a) the character and appearance of the streetscene and (b) the safety of other highway users. For Appeal B, the main issues are the effects of the proposed advertisement on the visual amenity of the area and public safety.

Reasons

Character and Appearance and Visual Amenity

7. The appeal site is located on Clapham Road in the footway outside a parade of shops and related commercial business at ground floor level with residential accommodation above known as Surridge Court,. The surrounding area is of a mixed character and appearance comprising both residential and commercial uses.
8. The proposed development includes the erection of a multifunctional communications hub which, in addition to the provision of telecommunication services such as ultrafast Wi-Fi and free phone calls to landlines, would also include a defibrillator and an illuminated digital advertisement panel that would be capable of promoting Council initiatives. The proposed hub would be erected on the site of an existing bulkier telephone kiosk.
9. Adjacent to the site, the footway is wide and already includes a range of street furniture, including telephone kiosks; telecommunication hub; mobile telecommunication mast and associated boxes; a freestanding advertisement sign; bus shelter with static advertisements; trees; lamp posts; signs and pedestrian crossing lights with their associated control boxes.
10. With the proposed hub replacing the existing bulkier kiosk there would not be a material change to the 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 Clapham Road. The siting of the proposed hub would be in alignment with the existing street furniture along this part of Clapham Road. Further, because of its siting and design, the proposed hub would appropriately integrate into the mixed

character and appearance of the streetscene in this locality rather than be a particularly incongruous or conspicuous addition.

11. The illumination associated with the proposed digital advertisement display would not replicate the display associated with the existing kiosk. However, this part of the road is well lit and the proposed digital display would be seen against the context of the adjacent ground floor commercial uses. The proposed display would not be an incongruous addition to the streetscene by reason of its illumination. A suitable condition 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.
12. 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 Q2, Q5, Q6 and Q17. Amongst other matters, these policies require development to respect local distinctiveness by responding to positive aspects of the locality, not to unacceptably compromise visual amenity from the public realm 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.

Highway and Public Safety

13. The Planning Practice Guidance advises on the locations of, and types of, advertisements most likely to affect public safety on roads. It includes junctions and pedestrian crossings and those advertisements which are internally illuminated and subject to frequent changes of display, such as the proposed advertisement. From what was observed during the site visit, the proposed hub would be located on a comparatively clear and straight stretch of road where there is a wide footway and a bus lane (used by taxis and cyclists) adjacent to the footway.
14. There is a junction adjacent to the appeal site which is used by vehicles to access a parking area associated with Surridge Court. As is the situation with the existing kiosk, the proposed hub would not affect the visibility of drivers accessing the parking area in their vehicles. It was observed that there was a low number of turning movements into the parking area.
15. The proposed digital display would face towards traffic heading north along Clapham Road which is similar to the advertisement which would be replaced. Although the digital display would allow the changing of advertisements, the transition of the images and the restriction of moving images could be controlled by suitably worded conditions to ensure that there would be no unacceptable distraction to drivers.
16. By reason of replacing an existing kiosk, the siting, design and size of the proposed hub would not interfere with the main part of the footway which was observed to be used by pedestrians. No obvious pedestrian desire route was observed across the appeal site during the site visit.
17. For the reasons given, it is concluded that for Appeal A the proposed development would not cause unacceptable danger for other highway users

and, as such, it would not conflict with LLP Policy Q17 and LP Policy T4 concerning proposals not increasing road danger and advertisements harming public safety. LLP Policies Q2, Q5 and Q6 are not of direct relevance to the safety of other highway users and public safety. For the same reasons, it is concluded for Appeal B that the proposed advertisement would not give rise to unacceptable public safety concerns.

Other Matters

18. Residents have raised a number of concerns most of which have been addressed under the main issues. 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

19. 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.
20. For Appeal A, for reasons of clarity it is necessary for the approved scheme to be defined, including the management plan. The proposed hub is being erected on the site of the existing telephone kiosk and a condition seeking the restoration of the footway is unnecessary.
21. 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 safety, 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 the 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

22. 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 document; 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.