



Appeal Decisions

Site visit made on 15 August 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal A Ref: APP/Z5630/W/22/3303488

Pavement opposite 67 Victoria Road, Surbiton, London KT6 4NR

- 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 (JC Decaux UK Ltd) against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 22/01123/FUL, dated 4 April 2022, was refused by notice dated 27 May 2022.
 - The development proposed is the installation of a multi-functional Communication Hub including advertisement display, as illustrated in the attached documentation.
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Appeal B Ref: APP/Z5630/H/22/3303489

Pavement opposite 67 Victoria Road, Surbiton, London KT6 4NR

- 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 (JC Decaux UK Ltd) against the decision of the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref 22/01124/ADV, dated 4 April 2022, was refused by notice dated 19 July 2022.
 - The advertisement proposed is the installation of a multi-functional Communication Hub including advertisement display, as illustrated in the attached documentation.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matter

3. As set out above, there are two appeals on the site. I have considered each proposal on its own individual merits. However, the communication hub and advertisement are inextricably linked in each case. I have considered each proposal on its individual merit and with regard to the relevant legislation, policy and guidance. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. With respect to appeal B, the Council has referenced policies it considers to be relevant to this appeal and I have taken these into account as a material consideration. However, powers under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 to control advertisements may only be exercised in the interests of visual amenity and public safety, taking account of any material factors. Consequently, the Council's policies have not by themselves been decisive in my determination of appeal B.

Main Issues

5. For both appeals the main issues are the effect of the development on:
 - Amenity, including whether the proposal would preserve or enhance the character or appearance of the Surbiton Town Centre Conservation Area;
 - Public safety with particular regard to the safe movement of pedestrians.
6. For Appeal A only, additional main issues are:
 - Whether the proposed development has been suitably designed to minimise energy consumption; and
 - The effect of the development on the risk of crime.

Reasons

Character and Appearance

7. The appeal site is situated within a busy commercial area in a town centre location. Retail units differ in style and appearance; however, they generally have relatively discrete signage with minimal illumination evident. Street furniture has a consistent design style, grouped within defined linear rows presenting a visually coherent and coordinated appearance. The appeal site is within a short section of built out pavement close to the junction of Crummocks Chase. The pavement contains two cycle hoops and a bollard but is otherwise free of obstruction. It contributes positively to the street scene.
8. The site is within the Surbiton Town Centre Conservation Area, the historical significance of which is derived from its historical development as part of Surbiton 'New Town' following the relocation of Surbiton railway station to its current location in the mid-19th century. The area has a typical mix of high street uses such as shops, pubs and food outlets. Section 72 (1) of the Planning (Listed buildings and Conservation Areas) Act 1990 places a statutory duty on the decision maker to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area (CA). In considering the effect of the proposal on the CA the impact must be weighed against the harm it would have on the heritage asset.
9. The proposal would be relatively utilitarian in its appearance, especially due to its wide base and monolithic form. Therefore, in comparison to existing street furniture on this side of the road, the proposal would appear as a substantial, bulky and stark intervention within the CA. The relatively narrow width of the road and pavement would exacerbate the bulky appearance of the proposal.
10. Although, there are some modern shop fronts within the street and modern items of street furniture exist within the conservation area the proposed structure would be appreciably larger and of greater prominence than nearby street furniture, partly due to its inclusion of an illuminated advertisement. Consequently, it would be an incongruous addition to the street that would not integrate well with existing features. As a result, the proposal would not preserve or enhance the CA. Accordingly, in regard to appeal A, the proposal would not accord with Policies CS8, DM10 and DM12 of the Kingston Core Strategy 2012 (KCS) and Policy HC1 of the London Plan which seek to ensure that new development recognises distinctive local features and character and has regard to the historic environment. Furthermore, the proposal would not

comply with the Framework, which seeks well designed places where development is sympathetic to the local character.

11. The harm to the CA would be less than substantial. Paragraph 202 of the Framework requires less than substantial harm to be weighed against any public benefits of the proposal. The proposal consists of a communication hub which includes an illuminated advertising screen, defibrillator, data connection point and further services as detailed by the appellant. However, the public benefit of these services would be relatively limited and would not outweigh the harm found to the CA. Furthermore, with respect to Appeal B and for the above reasons, the proposal would harm the visual amenity of the area.

Pedestrian Safety

12. The proposal would be located within a build-out of the pavement between the end of row of parking spaces and the junction of Crummocks Chase. This part of the pavement is visually delineated from the main pavement by different surface treatment. As such it does not form part of the main footway. Although the pavement is generally fairly narrow on this side of the road, on my site visit pedestrians appeared not utilise this section of pavement. Although I appreciate that this was just a snapshot in time on a weekday morning, I do not have any substantive evidence that this would not be the norm.
13. The proposal would therefore be unlikely to cause an obstruction, nuisance or inconvenience to pedestrian movements in the area. As such, the proposal would not cause any demonstrable harm to highway or public safety. I therefore find no conflict with KCS policies DM8 or DM10 which seek to ensure that developments have regard to local traffic conditions and highway safety and prioritise the access needs of pedestrians and cyclists. Nor would there be any conflict with London Plan policies D3 or D8 or the Framework in this respect.

Appeal A Only

Energy Consumption

14. The Council is concerned that the energy consumption of the proposed unit would be equivalent to that of three houses per day, and therefore it would be not unreasonable to consider the proposal equivalent to that of building development. Whilst Policy SI2 of the London Plan is not relevant in this case as it only refers to major development, paragraphs 152 and 154 of the National Planning Policy Framework (the Framework) support the use of renewable and low carbon energy and promote the design of new development to help reduce greenhouse gas emissions.
15. The hub would be fitted with a solar panel, and the appellant states that it uses energy from green sources, which I agree are measures which, in part, would reduce the energy consumption of the proposed unit. Although the specifications of the hub state that the LED display would be dimmable to minimize power consumption, it has not been demonstrated whether the panel would be dimmed routinely at certain times of the day specifically to reduce energy consumption. Neither does the specification state what percentage of the unit's energy consumption would be capable of coming from the solar panel.

16. It has therefore not been demonstrated that the proposed development has been designed to minimise the consumption of energy. There would, therefore, be some conflict with the requirements of paragraph 152 and 154 of the Framework in so far that I cannot reasonably ascertain whether the appellant has done all that is possible to minimise energy use from the proposal.

Risk of Crime

17. The Metropolitan Police have not identified the proposed location of the communications hub as being at a high risk of crime. The hub itself has design features aimed at reducing opportunities for crime and a planning condition to secure the management plan would help reduce the risk of the communications hub being used for crime. Had I been minded to allow the appeal, the condition would have adequately mitigated concerns relating to the use of the hub for the purposes of criminal activity.
18. I therefore conclude on this issue that the proposal would not pose an unacceptable risk to crime safety. There would be no conflict with CS policy DM10 and London Plan Policy D3 which requires development to achieve safe and secure environments and would be contrary to the provisions of the Crime and Disorder Act 1998 (as amended).

Conclusion

19. The proposal would not adversely affect pedestrian movements in the area or pose an unacceptable risk in relation to crime safety. However, it would not preserve or enhance the character or appearance of the CA and it has not been demonstrated that it has been designed to minimise its energy consumption. Therefore, as such, in respect of Appeal A, it would be contrary to the development plan when read as a whole.
20. The communications hub would, however, provide an efficient, reliable and free to use public service and would incorporate a defibrillator. Although it would also be powered by energy from renewable sources it has not been demonstrated that energy consumption by the proposal has been minimised. I have further considered the conditions suggested by the appellant relating to illuminance and restrictions on the display of images within the advertisement panel. Nevertheless, these benefits and measures would not outweigh the harm identified above.
21. With regard to Appeal B, as per the reasons set out above, I have found that the proposal would have a detrimental on both amenity and public safety.
22. Therefore, for the reasons given above both Appeal A and Appeal B are dismissed.

K L Robbie

INSPECTOR