



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: 15 September 2023

Appeal A Ref: APP/Z5630/W/22/3303485

Pavement opposite 276 Ewell Rd, London KT6 7AG

- 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 22/01129/FUL, dated 4 April 2022, was refused by notice dated 30 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/22/3303487

Pavement opposite 276 Ewell Road, London KT6 7AG

- 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 22/01130/ADV, dated 4 April 2022, was refused by notice dated 30 May 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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Decision

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

Preliminary Matters

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 effects of the development upon:
 - The character, appearance and amenity of the area; and
 - 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 parade of local shops. On this side of the road commercial units are set back from the carriageway by a wide pavement containing street trees which contribute positively to the character of the street scene.
8. The proposed hub would be relatively utilitarian in its appearance, due to its wide base and monolithic form. In comparison to other street furniture on this side of the road it would appear as a substantial, bulky and stark addition to the locality. Within its context in the road, the dynamic nature of the digital advertisement panels, capable of displaying several static images over time would be a visually dominant feature. Whilst light levels emitted would or could be reduced overnight, it would nevertheless be a bright feature in the road. Furthermore, the proposal would appear visually intrusive, introducing an element of clutter into an area where there is otherwise very little.
9. The proposal would therefore have an adverse effect on the character, appearance and amenity of the area. It would conflict with Policies CS8 and DM10 of the Kingston upon Thames Local Development Framework Core Strategy 2012 (the CS) which requires development to relate well and connect to its surroundings and respect the character and local distinctiveness of an area, and avoid locating structures, such as the type proposed where they would result in an adverse effect on the character and visual amenities of the local and wider area.

Pedestrian Safety

10. The proposal would be located close to the carriageway edge just beyond the end of a row of parallel car parking spaces close to the junction of Worthington Road. The footway is wide in this part of the road.
11. Concerns have been raised by the Council and a local councillor that the area in front of 276 Ewell Road is a privately maintained forecourt and therefore does not form part of the highway and as such the proposal would cause an undue obstruction to pedestrian movement. Furthermore, I have information before me which indicates that the area may be in private ownership. The surface treatment of the area immediately in front of Nos. 276 and 278 Ewell Road is clearly delineated but neither have active forecourt uses at present.

12. Whilst I appreciate that the use of the forecourts may change in the future, I have not been presented with any unequivocal evidence that this area does not form part of the pavement. Moreover, this area was clearly used by pedestrians as a logical continuation of the pavement and, as such, the proposal would not inconvenience the free movement of pedestrians in this area.
13. I therefore conclude on this issue that the proposal would not pose an unacceptable risk to pedestrian safety. 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 paragraphs 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, nor would it pose an unacceptable risk in relation to crime safety. However, it would harm the character, appearance and visual amenity of the area. As such, in respect of Appeal A, it would be contrary to the development plan when read as a whole. In respect of Appeal B, it would be detrimental to amenity and as such would conflict with the development plan in so far as it is relevant to the determination of the appeal.
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. Therefore, for the reasons given above both Appeal A and Appeal B are dismissed.

KL Robbie

INSPECTOR