



Appeal Decisions

Site visit made on 30 August 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal A Ref: APP/H5960/W/22/3308366

Footpath Outside McDonald's, Marl Road, Battersea, London SW18 1JT

- 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 British telecommunications PLC against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2021/5841, dated 9 December 2021, was refused by notice dated 10 August 2022.
 - The development proposed is removal of existing BT phone box and installation of a proposed replacement BT street hub and associated display of advertisement to both sides of the unit.
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Appeal B Ref: APP/H5960/H/22/3308367

Footpath Outside McDonald's, Marl Road, Battersea, London SW18 1JT

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by British Telecom PLC against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2021/5845, dated 9 December 2021, was refused by notice dated 10 August 2022.
 - The advertisement proposed is two digital 75 inch LCD display screens, one each side of the street hub unit.
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Decisions

1. **Appeal A** is allowed and planning permission is granted for removal of existing BT phone box and installation of a proposed replacement BT street hub and associated display of advertisement to both sides of the unit at Footpath Outside McDonald's, Marl Road, Battersea, London SW18 1JT in accordance with the terms of the application Ref 2021/5841, dated 9 December 2021, subject to the conditions in the Schedule at the end of this decision.
2. **Appeal B** is allowed and express consent is granted for two digital 75 inch LCD display screens, one each side of the street hub unit, as applied for. The consent is for 5 years from the date of this decision and is subject to the 5 standard conditions set out in the Regulations and the conditions in the Schedule at the end of this decision.

Preliminary Matters

3. The 2 appeals relate to the same site and to each other. I have considered each on its individual merits, but as they are intrinsically linked and raise similar issues, I have combined these cases in a single decision letter.

4. The descriptions of the proposed development and advertisement in the header and decisions above have been taken from the respective application forms. The appeal forms provide different descriptions but I have been provided with no written confirmation that these have been agreed with the Council. As such, I have based my assessments on the original descriptions.
5. The appeal drawings indicate the removal of an existing BT phone box approximately 25m to the east of the proposed street hub and so outside the appeal site as defined by a red line on the plans. The Council has assessed the development on the basis that the phone box would be removed. In the event the appeal is allowed, it would be reasonable to attach a Grampian style planning condition that would require the removal of the phone box as it is owned by the appellant. Therefore, my determination on appeal A is made on the basis the proposal includes the removal of the existing phone box.
6. In July 2023 and since the appeal was lodged, the Council has adopted a new Wandsworth Local Plan (the LP). Its policies supersede those referred to on the Council's decision notice apart from the policies in the London Plan 2021 (the London Plan). The main parties have had an opportunity to comment on the LP policies and I have taken the comments received into account. The Regulations confine the assessment of advertisements to issues of amenity and public safety. With respect to appeal B, the development plan policies are only relevant considerations insofar as they relate to such matters.

Main Issues

7. For both appeals, the main issues are (i) the effect on visual amenity as well as the character and appearance of the area, and (ii) the effect on public safety, specifically on vehicular users of the highway and pedestrians.

Reasons

Effect on visual amenity, character and appearance of the area

8. The street hub would be on a pavement on the north side of Swandon Way. The site is in an urban area, close to several tall buildings. The single storey McDonald's restaurant is immediately to the north and a petrol station is on the other side of Smugglers Way, which adjoins Swandon Way at a signalised junction to the west. Wandsworth Roundabout lies just to the east.
9. The phone box to be removed is between the appeal site and a bus shelter including advertisement panels. On the same stretch of pavement there is a bin, lampposts, a roadside cabinet and street sign. Externally illuminated signs near to the roadside boundary of the McDonald's face onto Swandon Way and Smugglers Way. There is also a taller logo sign near to the roundabout and signs on the McDonald's building itself. On the approach towards the site from the west the signs at the petrol station are clearly seen from the road. Also, there is a large electronic display advertisement at a high level in the central of the roundabout that is seen on the approach. Street furniture and signage are therefore common in the area.
10. The street hub would be seen when approaching from the west along Swandon Way, from the roundabout to the east and from Smugglers Way near to the signalised junction. In such views, it would be seen alongside, in front of or behind the bus shelter and other existing street furniture as well as the signage at the McDonald's and the petrol station. There are no other street hubs within

the immediate locality. However, the proposal would not appear incongruous given the variety of nearby roadside features and advertisements.

11. Moreover, the proposed displays would be seen in the same context as the signs at the petrol station and restaurant as well as those on the bus shelter. The illuminated displays would not be out of character given the existing lit advertisements and the streetlights.
12. The hub would be of a different design and slightly taller and wider than the phone box it would replace and so it would be more prominent. Nonetheless, the differences in size and appearance would be fairly minor and so the proposal would not result in a more cluttered pavement compared to the existing situation. In arriving at this view, I have had regard to the close proximity of the phone box and the bus shelter, which has the visual effect of blocking off the whole of the pavement when viewed from the west and the east. The proposed hub would be set further away from the bus shelter and so it would create a more spacious feel to the pavement.
13. The Council advises that a new mast and cabinets close to the appeal site has been granted approval. I have not been provided with the full details of this proposal and so it is difficult to assess the visual impact of the street hub together with these features in the event that they are erected. However, the hub would replace a phone box and there is no indication that the box would be removed should the mast and cabinet be installed. Given this context, I am satisfied the hub would not lead to an unacceptable clutter of street furniture even if the mast and cabinets are provided.
14. For the above reasons, I conclude the development would not harm the character and appearance of the area. Also, the proposed advertisements would cause no detrimental effect on amenity. In these regards, the development would accord with LP policies LP1, LP2 and LP22 and policies D3 and D8 of the London Plan. The advertisement proposal would also accord with LP9 insofar as this is relevant in the determination of appeal B.

Effect on the safety of vehicular users of the highway

15. My visit can only provide a snapshot in time but I saw Swandon Way was busy with traffic travelling in both directions. Transport for London (TfL) as the relevant highway authority has raised concern that the advertisements would distract drivers navigating the Swandon Way/Smugglers Way junction as well as bus drivers approaching the bus stop.
16. The displays would be internally illuminated, frequently changing and larger than those currently on the phone box to be removed. Also, they would face on-coming traffic and so they would be visible to drivers travelling along Swandon Way. Consequently, the displays would be more likely to distract drivers than the static advertisements on the phone box.
17. Even so, it does not follow that the displays would prejudice highway safety. Drivers coming towards the site from the west are already faced with a number of roadside advertisements including those at McDonald's and the petrol station. However, there is no evidence before me to indicate that these have been the cause of accidents or highway safety concerns. Like the existing signs, the proposed street hub would be seen from a distance away on

Swandon Way as the road is straight. As such, the display on the west side of the hub would not cause a sudden distraction.

18. Moreover, the most obvious advertisement when approaching from the west is the large high level electronic display on Wandsworth Roundabout. This stands out above the traffic lights for a significant distance away. In comparison, the proposed display would be a minor distraction. Also, the street hub would not draw drivers' attention away from any directional signs as there are none as you approach the traffic lights from the west.
19. Bus drivers would see the proposed display facing westwards. However, it would be viewed with a number of other signs including those on the bus shelter itself. In absence of any evidence to show existing advertisements have caused unsafe distraction, I find no reason the proposed display would prejudice highway safety in these regards.
20. The upper part of the west facing display would be visible for drivers travelling along Smugglers Way towards Swandon Way. However, again this would be seen with the advertisements already at the McDonald's site. Also, vehicular movements out of Smugglers Way are controlled by traffic signals that would be more obvious to drivers than the proposed display. As such, the proposal would not cause an unsafe distraction to drivers leaving Smugglers Way.
21. The east facing display would be visible to drivers leaving the roundabout onto Swandon Way. However, it would be on the other side of the road and seen with other signage. Therefore, it is unlikely to draw drivers' attention away from the road and the traffic signals. The proposed hub would not obstruct drivers' visibility of the road.
22. For these reasons, I conclude the proposed displays and street hub would not cause harm to the safety of vehicular users of the highway. In these regards, the displays and the development would accord with policies D3 and T4 of the London Plan and LP policies LP9, LP22 and LP50 insofar as these relate to matters of public safety. It follows that, in these respects, the proposal would not prejudice the referred to the Mayor's Vision Zero to prevent deaths or serious injuries occurring on London's streets.

Effect on pedestrian safety

23. The hub would be near to the fence on the McDonald's site boundary and stretch across part of the footway towards the kerb. However, at this point the pavement is quite wide and the appellant contends that a clear footway width of 2.8m would remain. The gap between the hub and the nearest lamppost would be slightly narrower than claimed but, in any case, there would be sufficient space for users of the pavement to pass, including those in wheelchairs or with pushchairs. Moreover, the phone box to be removed is located where the pavement narrows due to the kerb line moving closer to the McDonald's site to allow for the bus stop. By removing the phone box, pedestrian movement would be eased at a point where it is currently hindered. In overall terms, there would be an enhancement to the footway as a pedestrian environment.
24. For these reasons, I conclude the development and advertisements would not cause harm to public safety in terms of restricting pedestrian movement. In these regards it would accord with Policy T2 of the London Plan and LP policies

LP9, LP22 and LP50. Amongst other things, these look to facilitate walking through the delivery of healthy streets.

Other Matters

25. The Council suggest the proposed hub is not needed. However, amongst its functions the hub would provide free public access to wi-fi, free mobile and landline calls and would boost telecommunications coverage. As such, it would seem to serve an electronic communications purpose. At paragraph 118, the National Planning Policy Framework (the Framework) states local planning authorities should not question the need for an electronic communications system. Accordingly, the contentions made by the Council in these respects attract little weight in my deliberations.
26. TfL refers to a principle whereas 1 street hub should replace 4 phone boxes. However, no development plan policy has been provided that includes such a requirement. TfL also raises concern over the works to install the proposed hub and potential obstruction to the pavement and associated illegal parking. However, the grant of planning permission and advertisement consent would not authorise unlawful blocking of the footway or parking. Therefore, these factors have little influence on my assessment.
27. A concern is raised over the inclusion of face recognition software as part of the hub and subsequent invasion of privacy. However, there is no indication that the hub would include features that would allow an intrusion of privacy of any individual. Moreover, the development would be away from any dwelling and so it would not adversely affect the living conditions of any residents.
28. The above concerns provide insufficient reason to dismiss the appeals. As such, they do not affect my conclusions.

Conditions

29. The Council has suggested conditions to be imposed in the event that I decide to allow the appeals. I have assessed these against the tests for conditions as set out in the Framework. Where appropriate I have amended the wording for reasons of precision.
30. For appeal A, I have attached a condition that lists the approved drawings in the interests of clarity. Also, to ensure the proposal does not lead to unnecessary street clutter I attach a condition that requires the removal of the existing phone kiosk as shown on the approved plans. However, the suggested condition that requires the removal of the hub in the event that it has no function or ceases to be in use is imprecise given the hub would have a number of purposes. As such, it has not been imposed.
31. The suggested condition that prevents the footway from being blocked during construction is imprecise and unenforceable given that the street hub itself would cause a degree of obstruction. Also, a condition that requires vehicles associated with the installation of the hub to accord with parking restrictions is unnecessary as it replicates controls that are already in place. A condition that prevents skips or construction materials being kept on the pavement is not required as this is covered by a highway licence scheme. As such, no conditions covering these matters have been imposed.

32. For appeal B, I have included conditions on brightness as well as on the type of display and the method and frequency of changes. These conditions are required in the interests of amenity and to ensure the displays do not cause public safety detriment by unduly distracting drivers.

Conclusions

33. For the reasons given, I conclude that both appeals should be allowed.

Jonathan Edwards

INSPECTOR

SCHEDULE OF CONDITIONS FOR APPEAL A – APP/H5960/W/22/3308366

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: WDW-209 revision B, un-numbered elevations and footprint drawing of the street hub (scale 1:20@A3).
- 3) No construction works on the installation of the street hub hereby permitted shall be commenced until the existing phone box shown to be removed on the approved plans is removed in its entirety and the land made good to the same condition as the adjacent land.

SCHEDULE OF CONDITIONS FOR APPEAL B – APP/H5960/Z/22/3308367

- 1) The maximum steady brightness of any signs hereby permitted is not to exceed 600 candelas per square metre during daylight hours and 280 candelas per square metre between dusk and dawn. The levels of luminance on the digital signs should be controlled by light sensors to measure the ambient brightness and dimmers to control the lighting output to within these limits.
- 2) The advertisements shall be static and contain no moving features, flashing, animation, intermittent light source or exposed cold cathode tubing. Sequential advertisements displayed via the unit permitted by this consent shall not change more than once every 10 seconds. The interval between successive displays shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including fading, swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction. The sequencing of messages relating to the same product is prohibited. No advertisement shall resemble traffic signals.