



Appeal Decisions

Site visit made on 3 October 2023

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2023

Appeal A Ref: APP/H5960/W/22/3308799

Telephone box outside 17 and 17a Mitcham Road, SW17 9PA

- 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 BT Group PLC against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2021/5828, dated 9 December 2021, was refused by notice dated 16 August 2022.
 - The development proposed is described as removal of existing two telephone boxes and installation of freestanding 'Street Hub' phone and web communications structure with double sided illuminated digital advertisement panel.
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Appeal B Ref: APP/H5960/Z/22/3308800

Telephone box outside 17 and 17a Mitcham Road, SW17 9PA

- 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 BT Group PLC against the decision of Council of the London Borough of Wandsworth.
 - The application Ref 2021/5702, dated 9 December 2021, was refused by notice dated 16 August 2022.
 - The advertisement proposed is described as two digital 75 inch LCD display screen, one on each side of the Street Hub unit.
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Decisions

Appeal A Ref: APP/H5960/W/22/3308799

1. The appeal is dismissed.

Appeal B Ref: APP/H5960/Z/22/3308800

2. The appeal is dismissed.

Preliminary matters

3. I have considered Appeal A and Appeal B on their own individual merits. However, as the communications hub and advertisement are linked, I have dealt with them together to avoid duplication. For appeal A I have taken the description of development from the Decision Notice and for appeal B the description is taken from the application form. These descriptions are more precise than other descriptions provided.
4. In relation to the display of advertisements, Regulation 3(1) of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007

states that a local Planning Authority shall exercise its powers under these regulations in the interests of amenity and public safety, taking into account the provisions of the development plan, so far as they are material; and any other factors. Appeal B has been determined in accordance with these regulations.

5. Since the appeals were submitted the Wandsworth Local Plan: Development Management Policies Document (2016) (DMSD) and the Wandsworth Publication Version Local Plan (Regulation 19 version) (PVLVP), have been replaced by the Wandsworth Local Plan 2023-2038, which was adopted in July 2023 (LP). In relation to the appeal proposals, as suggested by the Council, I agree that DMSD Policies DMS1, DMS8, DMS9 & DMT1 and PVLVP Policies LP1, LP3, LP9, LP22, LP49 & LP50 have effectively been replaced by LP Policies LP1, LP2, LP3, LP9, LP22, LP49 & LP50. The appellant has confirmed that, in relation to these appeals, the newly adopted LP policies are not significantly different to those set out in the decision notices.

Main Issues

6. Appeal A – The first main issue is the effect of the proposal on the character and appearance of the immediate area, including the setting of various heritage assets. The second main issue is the effect of the proposal on pedestrian movement and public safety.

Appeal B - The main issues are the effect of the proposal on amenity and public safety.

Reasons

7. The Code for Best Practice on Mobile Network Development in England (2022) explains that local planning authorities should support the expansion of electronic communications networks and that there should be a presumption in favour of facilitating such development. It also advises that good siting and design principles should apply to all wireless network development. Any site-specific considerations and context should be taken into account, including protecting visual amenity and mitigating visual impacts. Operators should consider the design principles set out in the National Planning Policy Framework (the Framework), local planning policies and relevant design codes.
8. Policy SI6 of the London Plan 2021 and LP Policy LP22 support the provision and improvement of infrastructure for digital connectivity in appropriate locations. Such development should support and enable the provision of public services. It should not detract from the character and appearance of its setting and must not impact on the usability of the pedestrian environment.

Character and appearance

9. The appeal site is located within a busy commercial area within Tooting Town Centre and on the opposite side of the road to Tooting Broadway Station. It is adjacent to the busy controlled junction of Tooting High Street (A24), Mitchem Road (A217) and Garratt Lane (A217). There are pedestrian crossing points around the junction and immediately adjacent to the appeal site is a cycle lane, with a controlled pedestrian crossing point a short distance beyond. On the opposite side of the road are a bus lane and taxi waiting area.

10. There is a considerable amount of street furniture within the immediate area, including traffic lights, highway signs, bollards, railings, street lights, cycle racks, refuse bins, infrastructure service cabinets and a number of telephone boxes. This is in addition to the shop signage and the signage associated with the underground station. As a result of these factors this part of Mitcham Road is busy and congested with people, traffic and street furniture.
11. There are a diverse range of traditional and modern buildings within the immediate area, including a number of listed and locally listed buildings/structures. On the opposite side of the road Tooting Broadway Station is a two-storey grade II listed building that was built in the 1920's. It features a curved façade built in Portland stone with three entrances and has several retail units to the sides of them. Its art deco style and form, together with its historic connections to the Northern Line, where a number of other stations were also designed by Charles Hobden, contribute to the historic significance of the building.
12. Just to the front of the station, within the wide paved area, is a bronze statue of Edward VII which sits on a granite plinth and was erected in 1926. Within the pedestrian island just beyond is an ornate cast iron ventilator/gas lamp, whose candelabrum form has five gas lamps held by decorative foliate branches and directional signs. Their artistic design, architectural form, functions and historic interest contribute to their significance. Both of these structures are grade II listed.
13. Nos. 48 & 69 Tooting High Street are locally listed. They are sited a short distance to the northwest of the appeal site and occupy prominent corner positions on the northern side of the controlled road junction. They comprise ornate red/buff brick buildings whose curved front elevations follow the alignment of the junction.
14. Collectively these heritage assets provide a distinctive landmark and contribute to the historic character and appearance of the immediate and wider area.
15. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires that when assessing proposals for new development which affects the setting of a listed building, special attention shall be paid to the desirability of preserving its setting. Section 16 of the Framework states that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to its conservation. Any harm to the significance of a heritage asset or from development within its setting requires clear and convincing justification. Where a proposal would lead to less than substantial harm to a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The effect of a proposal on the significance of a non-designated heritage asset should be taken into account. Together, policy HC1 of the London Plan 2021 and LP Policy LP3 are consistent with these requirements.
16. Collectively and amongst other things policies D3 & D8 of the London Plan and LP Policies LP1, LP2, LP22, LP49 & LP50 seek to achieve safe, secure and inclusive environments. Development should enhance and be well-related to local context and achieve a high level of integration with its surroundings. This includes appearance, movement function and function as a place. Desire lines for people walking and cycling should be a particular focus and consideration should be given to the location of street furniture so that it complements the

- use and function of the space. Proposals for unnecessary street furniture should be refused.
17. LP Policy LP9 deals specifically with advertisements. It seeks to ensure that they are well integrated with their context and do not contribute to the proliferation of clutter signage. They should avoid material harm to public amenity and public safety. The repurposing of phone boxes for predominantly advertising use will not be acceptable, particularly in proximity to heritage assets. Regarding highway safety, Policies T2 & T4 of the London Plan and LP Policies LP49 and LP50 promote accessible and sustainable transport solutions. Development should be safe and avoid harm to highway safety. It should be people focused and meet Healthy Street objectives, which seek improved access by foot and bicycle.
 18. These policies are consistent with paragraphs 7, 104, 110, 111, 114 and 136 of the Framework 2023 and the advice set out in the National Planning Practice Guidance.
 19. The existing phone boxes are modest in form and appearance. They sit below the adjacent shop fascia's and are visually lightweight, with slim frames and large areas of clear glazing. As a consequence, they do not have a material impact on views along the pavement. However, they are visually tired and together with the older adjacent phone box, they have a degrading impact and add unduly to the clutter of street furniture in the immediate area.
 20. The proposed Steet Hub would be located on the site of the existing pair of slimline phone boxes, although would be set closer to the kerb and so would not project as far into the pavement. Despite having a smaller footprint than the existing phone boxes the proposed Street Hub would be noticeably taller, wider and solid. As a consequence, it would be more prominent within the street scene, both from the pavement and the adjacent carriageways. It would also have a visually enclosing impact on the pavement. The proposed internally illuminated advertisement panels would increase the prominence of the Street Hub. Both individually and together the appeal proposals would be unduly prominent within the street scene and would materially add to the street clutter in the immediate area. In addition, their visual relationship with the adjacent retained older phone box would be jarring and would highlight the proliferation of such infrastructure within this part of Mitcham Road.
 21. For these reasons, the proposed Street Hub and associated advertisements would materially detract from the character and appearance of the immediate area. Due to its proximity and illumination the proposed Street Hub and associated advertisements would materially detract from the setting of the listed gas lamp, statue and station building, particularly during the evenings. Conversely, the effect of the proposal on the setting of 48 & 69 Tooting High Street would be negligible due to the distance and juxtaposition between those properties and the appeal site.
 22. Collectively, the level of harm that would be caused to the significance of the above listed buildings would be less than significant. Despite this, such harm needs to be weighed against the public benefits that the scheme would result in.
 23. Having regard to the number of existing phone boxes in the locality, the removal of the existing phone boxes would in itself be a benefit. The proposed

Smart Hub unit would include a digital BT phonebook; weather information; maps; two USB ports; easy touch emergency button; hearing induction loops; high-contrast large-type labels; speech to text facility; talk back functionality; and easy phone access to four national charities. and familiar tablet interface. Its advertisement panels would be used for internally illuminated static commercial advertisements and public notices (5% screen time), which would be displayed at 10-second intervals. The proposed Hub would be regularly maintained, fully monitored and would include features to minimise nuisance and anti-social behaviour.

24. These facilities would deliver a number of public benefits, to which I give only a modest amount of weight. This is because the proposed Street Hub's individual contribution to the provision and improvement of infrastructure for digital connectivity would be modest, as would the level of public benefits it would deliver.
25. For these reasons, both individually and collectively the public benefits that would result from the proposed Street Hub would fail to outweigh the collective harm that would be caused to the significance of the listed station building, statue and gas lamp. They would also fail to outweigh the harm to the overall character and appearance of the immediate area.
26. Both the appellant and the Council have referred to a number of appeals for Street Hub units/kiosks that have been both dismissed and allowed, although few details regarding their setting and appearance are provided. Rather than set a precedent they serve to highlight the need to assess proposals on their individual merits and in light of the prevailing planning policies, as appropriate.
27. For these reasons I find that Appeal proposal A would materially harm the character and appearance of the immediate area. It would detract from the significance of the nearby listed building and structures and this harm would not be outweighed by any public benefits. Accordingly, the proposal would conflict with Policies HC1, D3 & D8 of the London Plan, LP Policies LP1, LP2, LP3, LP9 & LP22 and paragraphs 136, 199 & 200 of the Framework. Appeal proposal B would unacceptably harm the visual amenity within the immediate area, including the setting of various heritage assets. It would conflict with the above policies insofar as they are relevant to the proposed advertisements.

Public safety

28. As advised by the Council, Transport for London, who has objected to the proposal, has a duty under the Traffic Management Act 2004 to ensure that any development does not have an adverse impact. This part of Mitcham Road is both busy and close to a controlled junction with numerous lanes and the proposed Street Hub unit would be sited adjacent to a cycle lane and close to a controlled pedestrian crossing point further to the east. There is also a considerable amount of street clutter and considerable pedestrian movement in the immediate area.
29. The proposed advertisement panels would be internally illuminated and would face on-coming traffic in both directions. Notwithstanding their automatic screen dimming to control the brightness, due to their proposed siting within the street scene they could readily distract drivers, cyclists and pedestrians approaching from both directions. In view of the level of congestion and

activity in the immediate area, this would have the potential to have a significant impact on vehicular and pedestrian highway safety.

30. With the proposal an unobstructed pavement gap of 2.4 metres would be provided between the proposed Street Hub and the adjacent shopfront. This exceeds the suggested gap of two metres for lightly used streets given in the Department for Transport Manual for Streets (2007) (MFS) for low pedestrian flow. However, this stretch of pavement has a high pedestrian flow and includes a considerable amount of street clutter, including a single phone box a lamp post and cycle rack in the immediate vicinity of the appeal site. The MFS advises that in areas of higher pedestrian flow the quality of walking experience can deteriorate unless sufficient width is provided.
31. The proposed Street Hub would not project as far into the pavement as the existing pair of kiosks that would be removed. However, persons using the proposed communications facilities would likely stand within the resultant gap because the Street Hub interface is located in the side of the kiosk. This would reduce the unobstructed gap between the proposed Street Hub and the adjacent retail unit. As a consequence, the proposal would have an enclosing impact on the pavement and would be likely to restrict the free flow of pedestrian movement and obstruct pedestrian desire lines. This would result in inconvenience, further congestion and potentially pedestrian accidents.
32. For these reasons the proposed Street Hub unit and associated display of illuminated advertisement panels would have an unacceptably harmful impact on vehicular and pedestrian highway safety and convenience. Accordingly, Appeal proposal A would conflict with policies D3, D8, T2 & T4 of the London Plan and LP Policies LP1, LP9, LP22, LP49 & LP50. Appeal proposal B would conflict with these policies insofar as they are relevant to the proposed advertisements.

Conclusion

33. Having regard to the conclusions on the main issues and taking all other considerations into account, including the pre-application advice received from the Council, I conclude that Appeal A should be dismissed and Appeal B should be dismissed.

Elizabeth Lawrence

INSPECTOR