



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/22/3308784

**Telephone box outside 2–3 Bank Chambers, Tooting High Street, SW17
OTA**

- 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 2021/5696, 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 doubled sided illuminated digital advertisement panel.
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Appeal B Ref: APP/H5960/H/22/3308787

**Telephone box outside 2–3 Bank Chambers, Tooting High Street, SW17
OTA**

- 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 2021/5829, dated 9 December 2021, was refused by notice dated 16 August 2022.
 - The advertisement proposed is described as a 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/22/3308784

1. The appeal is dismissed.

Appeal B Ref: APP/H5960/H/22/3308787

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. The site plans and photographs submitted with the appeal were not the same as those submitted at the application stage. I confirm that this decision is based upon the site plan and photographs submitted at the application stage.
5. In section 3.3 of their planning statement the appellant refers to the removal of an additional two phone boxes. However, these are not referred to on the application form or in sections 2.1 and 2.4 of the planning statement, where reference is only made to the removal of the adjacent phone boxes. The Council's delegated report states that they requested confirmation of whether two additional phone boxes could be removed, but received no details from the applicant. As such the removal of two further phone boxes was not taken into a consideration by the Council in their overall assessment. Finally, paragraph 5.3 of the appellant's appeal statement states: *'It was also suggested that 2No. additional phone boxes be removed further along the road, which it should be noted are located out with the application site and therefore should not be for consideration'*. The appeal needs to be determined on this basis. This is because the introduction of the removal of further telephone boxes at the appeal stage would amount to a material change to the proposal and it has not been subject to public consultation or consideration by the Council.
6. 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.
7. 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 (LP), which was adopted in July 2023. 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

8. 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

9. 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. Good siting and design principles

should apply to all wireless network development and take into account any site-specific considerations and context. This includes 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.

10. 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

11. The appeal site is located within a busy commercial area within Tooting Town Centre and just outside Tooting Broadway Station. It is close 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 are bus and cycle lanes on both sides of Tooting High Street.
12. There is a considerable amount of street furniture within the immediate area, including traffic lights highway signs and bollards, street lights cycle racks, refuse bins, infrastructure service cabinets, flags and a bus stop a short distance to the south of the appeal site. This is in addition to the shop signage and awnings and the signage associated with the underground station. Within the local area there are also a good number of phone boxes/kiosks
13. There are a diverse range of traditional and modern buildings within the immediate area which includes Tooting Broadway Station, which is grade II listed. This two storey building occupies a prominent position behind a spacious area of pavement at the junction of Tooting High Street and Mitcham Road. Built in the mid 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.
14. 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. Its historic interest and artistic form contribute to its significance. 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. Its artistic ornate design, architectural form, variety of functions and historic interest contribute to its significance. Both of these structures are grade II listed. In addition to these listed buildings, Nos. 48 & 69 Tooting High Street are locally listed and occupy corner positions on the northern side of the controlled junction. They comprise ornate red/buff brick buildings whose curved front elevations match the alignment of the highway.
15. Together these heritage assets provide a local landmark and make a valuable contribution to the historic character and appearance of the immediate area.
16. 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. Collectively, policy HC1 of the London Plan 2021 and LP3 are consistent with these requirements.

17. Together 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.
18. 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 safe, 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.
19. These policies are consistent with paragraphs 7, 104, 110, 111, 114 and 136 of the Framework and the advice set out in the National Planning Practice Guidance.
20. 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 materially intrude in views towards the listed station building. Irrespective of this, the need for two phone boxes in this location is unclear and such structures can attract vandalism, graffiti, fly posting and suffer from lack of maintenance. As such, in principle their replacement would deliver public benefits.
21. The proposed Street Hub would have a materially smaller footprint than the existing phone boxes it would replace, although it would be noticeably taller, wider and would be solid in appearance. The proposed Street Hub would be located 0.5 metres to the north of the existing pair of phone boxes. Whilst the pavement is wider at this point the proposed Street Hub would be closer to the main façade and entrance to the listed station building. As a consequence, the proposed Street Hub would be materially more prominent within the street scene, particularly in views along the pavement and the highway. It would

- have an enclosing impact, which would detract from the spacious and open setting of the listed station building.
22. The proposed internally illuminated advertisement panels would add to the prominence of the proposed Street Hub. They would appear out of context within the immediate setting of the listed station building and the adjacent listed structures. This is due to the combined absence of freestanding or other large internally illuminated advertisements within the junction area and their close proximity to the adjacent older and modest sized shopfronts.
 23. For these reasons the proposed Smart Hub and associated advertisement panels would also noticeably increase street clutter, including telecommunications equipment and advertisements. It would add to the sense of congestion within the street scene. The proposals would materially detract from the character and appearance of the setting of the listed building and structures, as well as the street scene in general. Whilst the collective harm to the significance of the listed building and structures that would be caused by the proposed Street Hub would be less than significant it nonetheless needs to be weighed against the public benefits that the scheme would result in.
 24. As indicated above the replacement of the existing phone boxes would in principle deliver some public benefits. 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 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. It would also provide easy phone access to four national charities. These are all factors that deliver a number of public benefits.
 25. Although I acknowledge that the proposed Street Hub is part of a wider roll out scheme, it needs to be assessed on its individual merits. The contribution the proposed Street Hub would make to the objectives of the above-mentioned policies that support the provision and improvement of infrastructure for digital connectivity would be modest, as would the level of public benefits the proposed Street Hub would deliver.
 26. For the reasons set out above, I find that both individually and collectively the public benefits that would result from the proposal would fail to outweigh the collective harm that would be caused to the significance of the listed station building, statue and gas lamp.
 27. I am less concerned about the impact of the proposal on the setting of the locally listed buildings at 48 & 69 Tooting High Street. Whilst they are located relatively close to the appeal site, they are separated from it by the junction of Tooting High Street and Mitcham Road, which forms a strong physical barrier.
 28. 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 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.

29. For these reasons I find that Appeal scheme 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 scheme 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

30. Tooting High Street is a busy road that forms part of the Transport for London Road Network. The proposed Street Hub unit would be sited immediately adjacent to bus and cycle lanes (Cycle Superhighway 7) on both sides of Tooting High Street. It would also be close to a busy controlled road junction, controlled pedestrian crossings and a bus stop. At the same time, there is a considerable amount of street clutter in the immediate area, including cycle stands and it is a busy pedestrian area. Pedestrians are accessing and exiting the station, the road junction and the bus stop, as well entering and exiting shops and securing/collecting cycles.
31. The proposed advertisements would be internally illuminated and would face on coming traffic in both directions. It is acknowledged that the illuminated signs would benefit from automatic screen dimming to control the brightness. Notwithstanding this, due to their proximity, size and illumination the advertisements could well distract drivers, cyclists and pedestrians approaching from both directions along Tooting High Street, as well as those accessing/exiting Mitcham Road. Given 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.
32. With the proposal a gap of 3.2 metres would be retained in the pavement between the proposed Street Hub and the adjacent shopfront. This distance is above the suggested distance of two metres for lightly used streets as set out in the Department for Transport Manual for Streets (2007) (MFS). However, the MFS also advises that in areas of higher pedestrian flow the quality of walking experience can deteriorate unless sufficient width is provided.
33. The proposed Street Hub would reduce the width of the pavement around the station and in the approach to the controlled pedestrian crossing. Persons wanting to access the proposed communications facilities would likely stand within the resultant gap so that they face the interface panel. This would further 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 highly likely to restrict the free flow of pedestrian movement.
34. However, the existing pair of kiosks that would be removed are located within a narrower section of the pavement and are located closer to the bus stop. Accordingly, I find that, on balance, the proposal would not worsen the existing restricted pedestrian flow and associated pedestrian desire lines.
35. For these reasons the proposed Street Hub and the display of internally illuminated advertisements would have an unacceptable harmful impact on

vehicular and pedestrian highway safety. In this respect Appeal scheme A would conflict with policies D3, D8, T2 & T4 of the London Plan and LP Policies LP1, LP9, LP22, LP49 & LP50. Appeal scheme B would conflict with these policies insofar as they are relevant to the proposed advertisements.

Conclusion

36. 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