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## Appeal Decisions

Site visit made on 28 September 2023

**by Lynne Evans BA MA MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 31<sup>st</sup> October 2023**

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### **Appeal A Ref: APP/U5360/W/22/3311564**

#### **Pavement outside 240 Stamford Hill, Hackney N16 6TU**

- 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 JCDecaux UK against the decision of the Council of the London Borough of Hackney.
  - The application Ref: 2022/1996 dated 4 August 2022, was refused by notice dated 13 October 2022.
  - The development proposed is installation of a modern multifunction Hub unit featuring an integral advertisement display and defibrillator.
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### **Appeal B Ref: APP/U5360/H/22/3311565**

#### **Pavement outside 240 Stamford Hill, Hackney N16 6TU**

- 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 JCDecaux UK against the decision of the Council of the London Borough of Hackney.
  - The application Ref: 2022/1934 dated 4 August 2022, was refused by notice dated 13 October 2022.
  - The development proposed is 86 inch LCD screen capable of showing illuminated static displays in sequence (relating to installation of a modern multifunction Hub unit featuring an integral advertisement display and defibrillator).
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### **Appeal C Ref: APP/U5360/W/22/3311567**

#### **Pavement outside 33-39 Stoke Newington High Street, Hackney N16 8DR**

- 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 JCDecaux UK against the decision of the Council of the London Borough of Hackney.
  - The application Ref: 2022/1995 dated 4 August 2022, was refused by notice dated 13 October 2022.
  - The development proposed is installation of a modern multifunction Hub unit featuring an integral advertisement display and defibrillator.
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**Appeal D Ref: APP/U5360/H/22/3311570**

**Pavement outside 33-39 Stoke Newington High Street, Hackney N16 8DR**

- 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 JCDecaux UK against the decision of the Council of the London Borough of Hackney.
  - The application Ref: 2022/1933 dated 4 August 2022, was refused by notice dated 13 October 2022.
  - The development proposed is 86 inch LCD screen capable of showing illuminated static displays in sequence (installation of a modern multifunction Hub unit featuring an integral advertisement display and defibrillator).
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**Decisions**

**Appeal A Ref: APP/U5360/W/22/3311564**

1. The appeal is dismissed.

**Appeal B Ref: APP/U5360/H/22/3311565**

2. The appeal is dismissed.

**Appeal C Ref: APP/U5360/W/22/3311567**

3. The appeal is allowed and planning permission is granted for installation of a modern multifunction Hub unit featuring an integral advertisement display and defibrillator at Pavement outside 33-39 Stoke Newington High Street, Hackney N16 8DR in accordance with the terms of the application, Ref: 2022/1995 dated 4 August 2022, subject to the conditions set out in the attached schedule.

**Appeal D Ref: APP/U5360/H/22/3311570**

4. The appeal is allowed and express consent is granted for the display of 86 inch LCD screen capable of showing illuminated static displays in sequence (installation of a modern multifunction Hub unit featuring an integral advertisement display and defibrillator) as applied for and in accordance with the terms of application Ref: 2022/1993 dated 4 August 2022. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the Schedule attached to this decision.

**Preliminary Matters**

5. Appeals A and C relate to the refusal of planning permission for the proposed hubs. Appeals B and D are in respect of the refusal of advertisement consent for the digital signage which would be an integral part of the proposed hubs sought under Appeal A and C. In respect of each pair of appeals, I have considered both on their individual merits. However, to avoid repetition, I have dealt with the relevant issues concurrently.
6. In respect of Appeals B and D, Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the National Planning Policy Framework (the Framework) make it clear that advertisements are subject to control only in the interests of amenity and

public safety. While not decisive, I have taken relevant policies into account as a material consideration.

7. The Framework was updated in September 2023 but only in so far as it includes updated policy on planning for onshore wind development in England. It is not therefore necessary to reconsult the Appellant and the Council in respect of these appeals.

## **Main Issues**

8. I consider that the main issues in respect of each of the appeals (Appeals A – D) are:
  - a) the effect of the proposals on the character and appearance and visual amenity of the area, including proposed lighting,
  - b) the effect of the proposal on public safety, and
  - c) the effect of the proposed development on opportunities for crime and anti-social behaviour.

## **Reasons**

### *Background*

9. The appeals relate to two freestanding hubs, each with an integral advert display on one side with a call facility under a protective canopy on the other.
10. The hubs would be of the same design, with a width of 1338 mm and overall height of 2630mm; the depth of the main vertical element would be 317mm with the protective canopy extending out a further 600mm. There would be an 86 inch LCD screen display screen on one side, together a 32 inch touch screen including a call facility and access to other services, under a protective canopy on the other. Each proposal would provide a range of services, including, amongst others, free Wi-Fi, free phone calls to landlines and charities, defibrillator, wayfinding, device charging, rapid connection to emergency services, public messaging capabilities, and a platform for other technologies such as environmental conditions, CCTV and key data. These features are implemented with all units powered by green electricity and lit using high-capacity batteries, powered by solar energy.

## **Appeals A and B**

### *Issue a) Character and Appearance*

11. The proposed hub would be sited on the east side of Stamford Hill (A10) within the commercial core of Stamford Hill with a wide range of retail and commercial uses at street level and a mix of uses above. In townscape terms there are a variety of buildings flanking both sides of Stamford Hill, most ranging from three storeys or more. The wider street scene is of generous proportions, with the buildings on the west side of the road being set back from the road edge.
12. The Council has raised a concern that the public realm of the Borough is currently encroached by a significant number of existing advert boards, but

each proposal must be considered on its individual merits in the context of the local street scene. The proposed hub would introduce a new piece of street furniture. However, in the context of the surrounding urban scene, including the massing of the buildings and the width of the road, the scale of the hub and display would be moderated by the space about it. Although it would be viewed as a notable feature, as it is intended to be, it would respect the human scale of the streetscape and would not be unduly prominent or obtrusive within it.

13. I have noted the other street furniture in the vicinity. However, in the context of the wider streetscene I consider that the proposed hub with its adverts would be readily assimilated into the street scene. There is good spacing between the varied items of street furniture so that the addition of the proposed hub with its advertisement displays would not result in an over proliferation of street furniture or street clutter.
14. In respect of the levels of illumination which particularly relates to Appeal B, the light level would fall within the recommendations set out under the Institute of Lighting Professionals - Professional Lighting Guide No.5 2015: *The Brightness of Illuminated Advertisements*. Furthermore, the illuminated adverts would be seen in the context of a street scene which is generally well lit, including from street lighting, commercial premises as well as advertisements associated with existing bus shelters. I do not therefore share the Council's concerns that the illumination levels, particularly at night time, would be too high.
15. I am therefore satisfied that the proposal in respect of both Appeals A and B would respect the character, appearance and visual amenity of the locality. It would accord with Policies D4 and D8 of the London Plan, Policies PP1, and LP1 of the Hackney Local Plan (Local Plan) as well as the Framework, and in particular Section 12, all of which amongst other matters seek high quality development which respects the local context.

#### *Issue b) Public Safety*

16. The proposed siting of the hub would be on the footway outside No 240 Stamford Hill. It would be set in 1.1 m from the Stamford Hill kerb edge, leaving 3.2m of footway to the building edge. The footway narrows further to the south, but at the point where the hub would be sited, I consider that there would be sufficient width of unencumbered space so that pedestrian movement along the footway would not be restricted and the quality of the pedestrian environment would not be materially affected.
17. Stamford Hill (A10) is a busy road and a bus route. Although not marked into lanes, there appeared at the time of my site visit to be two lanes of traffic in both directions. Egerton Road is shortly to the north of the proposed hub with traffic both exiting and joining the A10 in both directions. Transport for London and the Council have drawn attention to the very high number of traffic accidents at this junction including one fatality, four severe and nine slight incidents involving pedestrians, cyclists and motor vehicle users over the period 2016 to 2021. Although I have not been provided with the detailed information in respect of these incidents, the number and severity of some of them is clearly a matter of concern. Given the siting of the proposed hub which would be solid in form and would obstruct clear sight in a southerly direction, this

would be of concern for traffic seeking to turn right out of Egerton Road. The Appellant has not sought to provide more detailed information to counter this concern. Although the advertisements could be controlled by condition including in terms of levels of luminance, this would not overcome the solid form and nature of the proposed hub.

18. I am not therefore satisfied on the basis of the submitted information, that it has been demonstrated that there would be no harm to public safety with particular reference to vehicle users and cyclists. There would therefore be conflict with Policy D8 of the London Plan, and Policies PP1 and LP42 of the Local Plan in this regard.

#### *Issue c) Crime and Anti-Social Behaviour*

19. The application is supported by a Unit Management Plan which the Appellant confirms has been prepared in consultation with the Police Service and is intended to set out the processes that will be used to identify and action any misuse and anti-social behaviour associated with the operation of the hub.
20. In raising this concern, the Council has referred to an Inspector's decision under the reference APP/X5210/W/203253878 and 2353540 who found that the proposed hub under consideration would increase opportunities for crime and antisocial behaviour. Each proposal must be judged on its individual merits and I do not know the details of that other proposal, its location and the evidence before that Inspector.
21. Whilst I agree the importance of the issue and the objectives set out in the Local Plan, there is no evidence before me to support this contention and the basis of the concern. As indicated above the proposal is supported by a Unit Management Plan. I acknowledge that this is generic in form, and it would therefore be appropriate to impose a condition to require a bespoke management plan to be prepared and subsequently maintained, specific to this particular proposal. Indeed, the Appellant has also suggested such a condition to be imposed.
22. I am therefore satisfied that subject to the imposition of a condition to require a management plan to be approved and thereafter maintained, there would be no harm on the grounds of crime and anti-social behaviour. There would be no conflict with Policy LP1 of the Hackney Local Plan and in particular criterion xv) which states that new development must *be secure and designed to minimise crime and antisocial behaviour*.

#### **Planning Balance Appeals A and B**

23. I am satisfied that, in respect of both Appeals A and B, the proposed hub with its advertisements would respect the character and appearance of the local area and visual amenity, and subject to the imposition of a condition, the crime and anti-social behaviour considerations relating to public safety could be satisfactorily addressed. The absence of harm in these regards weighs neutrally in the planning balance.
24. I am not however satisfied, on the basis of the limited information before me, that there would not be harm to public safety in terms of the siting of the proposed hub in relation to traffic movements, particularly from the side road of Egerton Road turning right onto the main road.

25. I have taken into account the range of benefits, including the community benefits, which would be provided by the proposed hub as described earlier. However, even acknowledging the support in the Framework for high quality communications, these public benefits would be modest.
26. The harm I have identified would not be outweighed by my other findings including the benefits from the proposal. This leads to the refusal of planning permission under Appeal A and advertisement consent under Appeal B.

## **Appeals C and D**

### *Issue a) Character and Appearance*

27. The appeal site is on the footway on the west side of Stoke Newington High Street (A10), outside a new multi storey building accommodating a retail food store at ground floor with residential above. There is also a more modern commercial building to the immediate south, whilst much of the surrounding area flanking the road on both sides, contains more traditional buildings of 3 storeys in height, also accommodating retail and service uses on the ground floor with residential over. The wider street scene is of generous proportions with two lanes of traffic and a bus lane as well as on street parking along the eastern side, together with generous pavements on either side with street trees.
28. The proposed hub would introduce a new piece of street furniture. However, in the context of the adjoining taller building it would adjoin, and the generous proportions of the street scene, the scale of the hub and display would be moderated by the space about it. Although it would be viewed as a notable feature, as it is intended to be, it would respect the human scale of the streetscape and would not be unduly prominent or obtrusive within it.
29. In respect of the levels of illumination which particularly relates to Appeal D, the proposal indicates that both screens would automatically dim at night to 600 cdm-2. The light level would fall within the recommendations set out under the Institute of Lighting Professionals - Professional Lighting Guide No.5 2015: *The Brightness of Illuminated Advertisements*. Furthermore, the illuminated adverts would be seen in the context of a street scene which is generally well lit, including from street lighting, commercial premises as well advertisements associated with existing bus shelters.
30. The Council has raised a concern that the public realm of the Borough is currently encroached by a significant number of existing advert boards, but each proposal must be considered on its individual merits in the context of the local street scene. I have noted the other street furniture in the vicinity, including the bike racks to the immediate north and bus shelter to the south. However, in the context of the wider streetscape I consider that the proposed hub with its adverts would be readily assimilated into the street scene. There is good spacing between the varied items of street furniture so that the addition of the proposed hub with its advertisement displays would not result in an over proliferation of street furniture or street clutter.
31. I am therefore satisfied that the proposal in respect of both Appeals C and D would respect the character, appearance and visual amenity of the locality. It would accord with Policies D4, D8 and HC1 of the London Plan, Policies PP1,

LP1 and LP3 of the Hackney Local Plan (Local Plan) as well as the Framework, and in particular Section 12, all of which amongst other matters seek high quality development which respects the local context.

*Issue b) Public Safety*

32. I agree with the Council that the footway is of sufficient width that there would not be a material reduction in pedestrian permeability as a result of the proposal. The siting of the existing bike racks means that pedestrians are already more likely to be walking closer to the building than the kerb edge. I am therefore satisfied that the proposed hub would not present an undue obstruction or hazard to pedestrians.
33. All vehicular traffic on this part of Stoke Newington High Street is travelling one way, in a northerly direction. The Council and Transport for London have raised a concern that the proposal and in particular the adverts facing towards oncoming road users could be a hazard for drivers. I have taken into account these concerns. However, in the context of this very busy location, with a variety of shop premises and where adverts are seen particularly associated with bus stops, I see no reason why the proposed hub and in particular the proposed adverts should be a distraction that would result in a danger to public safety sufficient to justify a refusal of permission and consent. Although each proposal must be considered on its individual merits, there is no information or evidence before me to support the concerns of the Transport Officers.
34. A further concern relates to the proposed hub partially obscuring sight lines for cyclists using the bike racks to the immediate north and seeking to rejoin the highway as well as for bus drivers approaching the hub and bike racks beyond. Whilst I agree that the size and solid nature of the proposed hub would partially restrict some visibility southwards, I consider that the hub would be inset a sufficient distance from the kerb edge that visibility of approaching traffic, including buses, would be maintained. Similarly, the siting of the proposed hub in relation to the bike racks would enable bus drivers and other vehicle users to see the bike racks and cyclists seeking to rejoin the carriageway. I am satisfied that public safety would not be compromised in this regard.
35. I am therefore satisfied, that given its proposed siting and subject to conditions to control the form of the proposed advertisements as well as luminance, there would be no material harm to public safety including vehicles, pedestrians and cyclists. There would be no conflict with Policy D8 of the London Plan, and Policies PP1 and LP42 of the Local Plan in this regard.

*Issue c) Crime and Anti-Social Behaviour*

36. The application is supported by a Unit Management Plan which the Appellant confirms has been prepared in consultation with the Police Service and is intended to set out the processes that will be used to identify and action any misuse and anti-social behaviour associated with the operation of the hub.
37. In raising this concern, the Council has referred to an Inspector's decision under the reference APP/X5210/W/203253878 and 2353540 who found that the proposed hub under consideration would increase opportunities for crime and antisocial behaviour. Each proposal must be judged on its individual merits

and I do not know the details of that other proposal, its location and the evidence before that Inspector.

38. Whilst I agree the importance of the issue and the objectives set out in the Local Plan, there is no evidence before me to support this contention and the basis of the concern. As indicated above the proposal is supported by a Unit Management Plan. I acknowledge that this is generic in form, and it would therefore be appropriate to impose a condition to require a bespoke management plan to be prepared and subsequently maintained, specific to this particular proposal. Indeed, the Appellant has also suggested such a condition to be imposed.
39. I am therefore satisfied that subject to the imposition of a condition to require a management plan to be approved and thereafter maintained, there would be no harm on the grounds of crime and anti-social behaviour. There would be no conflict with Policy LP1 of the Hackney Local Plan and in particular criterion xv) which states that new development must *be secure and designed to minimise crime and antisocial behaviour*.

## **Conditions**

### **Appeals C and D**

40. The Appellant has indicated that matters pertaining to the advertisement appeal with regard to speed of change between adverts and illumination can be controlled through appropriate conditions and has itself promoted a number of conditions. The Council has sought further details of illumination levels and an acoustic survey to be submitted, but I am satisfied that sufficient information has already been submitted in these regards and no additional information is required.
41. In respect of the planning permission for the replacement hub, and in addition to the standard condition limiting the lifespan of the planning permission, I have imposed a condition specifying the relevant drawings as this provides certainty.
42. The Appellant has produced a Street Hub Anti-Social Behaviour Management Plan. However, and as identified in the Plan, this is generic and I consider that a bespoke Plan should be prepared for the proposed hub.
43. The advertisement consent would be subject to the 5 standard conditions, as set out in the Regulations. In addition, in the interests of visual amenity and public safety, restrictions as to the nature and brightness of displayed images, their duration and transition are necessary.
44. Although these conditions have not been seen by the Appellant, I am satisfied that they broadly follow those proposed by the Appellant and that no party would be prejudiced by their imposition.

## **Conclusion**

45. For the reasons given above and having regard to all other matters raised, I conclude that Appeals A and B should be dismissed, and Appeals C and D should be allowed.

*L J Evans*

INSPECTOR

## **Schedule of Conditions**

### **Conditions in relation to Appeal C: Ref: APP/U5360/W/22/3311567**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan Site B 1:1250 @A4; Existing Site Plan B 1:200@A4; Proposed Site Plan B 1:200@A4; Existing and Proposed Hub x 2; Communication Hub Unit.
3. Prior to the hub and integral advertisements first being operated, a management plan shall be submitted to and approved in writing by the Local Planning Authority concerning the use and operation of the hub, with particular reference to the avoidance of anti-social behaviour. The hub shall thereafter be operated in accordance with the agreed management plan.

### **Additional Conditions in relation to Advertisement Consent under Appeal D: Ref: APP/U5360/H/22/3311570**

4. The intensity of the illumination of the two digital display screens shall not exceed 600 candelas per square metre (cd/m<sup>2</sup>) between dusk and dawn in line with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements'.
5. The digital screen shall not display any moving or apparently moving or audible images (including animation, flashing, scrolling three dimensional, intermittent or video elements); nor shall there be a period of blending between advertisements.
6. The minimum display time for each piece of content on the digital display screens shall be 10 seconds.
7. The interval between each piece of content on the digital display screens shall take place over a period no greater than one second and the display will include a mechanism to freeze the image in the event of a malfunction.

8. All illumination shall be non-intermittent unless otherwise agreed in writing by the local planning authority.
9. No content on the digital display screens shall resemble traffic signs, as defined in Section 64 of the Road Traffic Regulation Act 1984.