

Appeal Decision

Site visit made on 21 September 2023

by Martin Andrews MA(Planning) BSc (Econ) DipTP & DipTP (Dist) MRTPI
an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal A Ref: APP/K5030/W/22/3301237

Pavement o/s 125-129 Middlesex Street, London E1 7JF

- 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 Telecommunications plc, against the decision of the City of London Council.
 - The application, Ref. 21/01081/FULL, dated 30 November 2021, was refused by notice dated 25 May 2022.
 - The development proposed is the installation of 1 no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosk(s).
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Appeal B Ref: APP/K5030/H/22/3301238

Pavement o/s 125-129 Middlesex Street, London E1 7JF

- 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 Telecommunications plc against the decision of the City of London Council.
 - The application Ref. 21/01082/ADVT dated 30 November 2021, was refused by notice dated 25 May 2022.
 - The advertisement proposed is the installation of 2 no. 75" LCD display screens, one on each side of the Hub Unit.
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Decision: Appeals A and B

1. The appeals are dismissed.

Preliminary Matters

2. Appeal A relates to the refusal of planning permission for the proposed Street Hub. Appeal B is in respect of the refusal of advertisement consent for the LCD advert screens. I have dealt with the appeals on their individual merits, but as the advert screens are an integral part of the Hub it is both convenient and appropriate to consider the appeals and their main issues together. In the case of Appeal B, I have used the description on the Council's Notice of Refusal as it relates directly to the advertising as opposed to the development as a whole referred to on the application form.
 3. Paragraph 114 of the National Planning Policy Framework 2023 ('the Framework') states that advanced high quality and reliable communications infrastructure is essential for economic growth and social well-being and that planning policies and decisions should support the expansion of electronic communications networks. Paragraph 118 says that applications must be determined on planning grounds only and should not seek to prevent
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competition between different operators or question the need for an electronic communications system.

4. I have had regard to these and other statements of Government policy in the Framework and considered them in conjunction with the policies of City of London Local Plan and the London Plan cited by the Council in its Decision on the applications. These are Local Plan Policies CS2, CS10, CS12, DM10.1, DM10.4, DM12.1, DM12.2, DM15.7, DM16.2, DM17.1 and London Plan Policies D4, D8, HC1 & T2.
5. The supportive nature of Government policy on the expansion of electronic communications networks when considered against the more restrictive form of the development plan policies clearly necessitates a balanced decision. However, in my view it is the specifics of the site's characteristics and the extent to which the proposed equipment would be in keeping with its surroundings that are primarily the determinative factors in the appeals. In this context I have factored into the appraisal of the appeals my view firstly that the Street Hub is not in itself a poor design as the Council alleges and secondly that the benefit to the street scene of the associated removal of the existing kiosks is of material weight.

Main Issues

6. The main issues are (i) the effect of the proposed Street Hub and its advertising screens on visual amenity and the character or appearance of the Bishopsgate Conservation Area and (ii) the effect on public safety and convenience.

Reasons

7. On the first issue, the appeal site forms part of a triangular pedestrian area on the northeast side of Middlesex Street. The part closest to the shops, bars and restaurants facilitates vehicular access to service these premises and this has the effect of reducing the space for pedestrians, particularly given that the site significantly narrows at its eastern end.
8. The triangle accommodates a seating bench for public use, a cycle rack, a couple of semi-mature trees and a large but attractive freestanding parcel post box which stands out because of a combination of its bright red paintwork and prominent position in the wider and less cluttered part of the area. The appeal site plan also indicates the presence of an existing BT phone kiosk but at the time of my visit this had already been removed and to this extent the appellant's case is weakened.
9. Ostensibly there is some logic in the erection of a Street Hub on the site because the area is clearly well used by pedestrians including sitting on the bench (one of the trees providing shade from the sun). However, its siting close to the road would not relate well to users of the pedestrian triangle given that to access the equipment they would need to walk to its edge and be close to the busy road.
10. Moreover, as the Council points out, the backdrop to this pedestrian area is one of red brick buildings of a traditional design with a host of attractive features and restrained advertising signage. These buildings are a positive feature in the

street scene that add to the significance of the conservation area as a designated heritage asset. Because of this, the Street Hub with its overtly modern design and illuminated advertisements would appear somewhat out of keeping with its more subtle immediate setting, especially because from many aspects it would not be seen in the same visual frame as the modern architecture of the other side of the street. And given the relatively small area available for public use I consider that the proposed Street Hub would add one more element of clutter that would compound the adverse impact of its siting.

11. On the second issue, as stated above, the siting of the Street Hub would be essentially in a kerbside position adjacent to Middlesex Street. As such, I agree with the Council that it would to some extent comprise an obstruction of pedestrian flow along this side of the road, albeit minor because the pavement forms part of the much wider area of the triangle.
12. Overall, there would be less than substantial harm to the conservation area as a result of the proposed Street Hub, in conflict with the above-mentioned development plan policies and national policies referred to in paragraph 4 of this Decision. And although I have weighed the advantages of the Street Hub in this location, its kerbside position appears more to do with its commercial advantages of being prominent than usability by the public.
13. In weighing the planning balance, I conclude that this harm would not be outweighed by the public benefits that the Street Hub provides. In this context, the aforementioned pre-emptive removal of the old BT kiosk indicated on the application plan is relevant. Although the application states that another BT kiosk on the pavement outside No. 29 Mansell Street would be removed if in this case a permission is forthcoming, the departure from the one for two principle in this case must inevitably reduce the overall merits of the proposal.

Conclusion

14. For the reasons explained above and having had regard to all other matters raised the appeals are dismissed.

Martin Andrews

INSPECTOR