



Appeal Decisions

Site visit made on 1 February 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2023

Appeal A Ref: APP/A5840/H/22/3292392

Pavement outside Marks & Spencer, 311 Walworth Road, London SE17 2TG, 532370, 178155

- 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 London Borough of Southwark.
- The application Ref 21/AP/4334, dated 19 November 2021 was refused by notice dated 31 January 2022.
- The advertisement proposed is 2no. digital 75" LCD display screens, one on each side of the Street Hub unit.

Appeal B Ref: APP/A5840/W/22/3292391

Pavement o/s Marks & Spencer, 311 Walworth Road, London SE17 2TG, 532370, 178155

- 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 London Borough of Southwark.
- The application Ref 21/AP/4333, dated 2 December 2021, was refused by notice dated 31 January 2022.
- The development proposed is the Installation of 1no. new BT Street Hub, incorporating digital 75" LCD advert screens, and associated BT Phone Kiosk removal.

Decision

1. Appeal A is allowed and express consent is granted for two digital 75" LCD display screens, one on each side of the Street Hub unit as applied for. 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 attached Appeal A Schedule of Conditions.
2. Appeal B is allowed and planning permission is granted for Installation of 1no. new BT Street Hub, incorporating digital 75" LCD advert screens, and associated BT Phone Kiosk removal at Pavement o/s Marks & Spencer, 311 Walworth Road, London SE17 2TG in accordance with the terms of the application, Ref 21/AP/4333, dated 2 December 2021, subject to the conditions set out in the attached Appeal B Schedule of Conditions.

Preliminary Matters

3. There are two appeals relating to the same site. Appeal A is against the refusal of advertisement consent and Appeal B is against the refusal of planning permission. As they are by the same appellant, are intrinsically linked and raise similar issues, to avoid repetition I have dealt with both in a single decision letter. I have nevertheless considered each on their own merits.

4. The Regulations regarding advertisements stipulate that control may only be exercised in the interests of 'amenity' and 'public safety'. Therefore, with respect to appeal A, the development plan policies referred to by the Council are not determinative, but I have taken these into account as a material consideration.
5. Where relevant, possible effects on designated heritage assets have been considered. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. In advertisement appeals this is only in so far as it relates to amenity.

Main Issue

6. The main issue with respect to Appeal A is the effect of the proposed advertisements on visual amenity and with respect to Appeal B are the effect on the character and appearance of the area, including the Walworth Road Conservation Area and 305 Walworth Road, a grade II listed building.

Reasons

Visual amenity/character and appearance

7. The appeal site lies within the Walworth Road Conservation Area (the WRCA) whose significance is derived from being, as described by the Council, 'a good example of a historic town centre dating from the early 19th century, which is lined with Georgian and Victorian terraces and frequently ground floor retail extensions fronting the street'. The appeal site, occupied by another BT Phone Kiosk that would be removed as part of the proposal, currently makes a neutral contribution to the WRCA.
8. The grand II listed building at 305 Walworth Road is referred to by the Council. The single storey building has an attractive shop front, distinct from the more modern shop fronts found elsewhere in the locality, from which its significance derives. I saw at the site visit that that property faces directly on to a bus stop of a modern design that also incorporates poster advertising panels. The appeal site is located a little distance along Walworth Road and is distinctly separated from the listed property by intervening street furniture and trees.
9. Street furniture in the immediate locality of the appeal site consists of street lighting poles, bus stops, cycle parking loops, street trees, a green utility box, telephone kiosk, bench and parking regulations pole/sign. Therefore, I saw at the site visit that there are already significant elements of street furniture in the area creating a somewhat cluttered appearance.
10. The proposed street hub unit would replace the existing apparatus. It would be of a marginally slimmer design and slightly smaller footprint in comparison to the existing apparatus and would be viewed in association with the other street furniture in the locality. While the appeal scheme would not result in a reduction of street furniture in total, it would nevertheless not result in any increase.
11. The advertisements proposed to each side of the street hub unit would be of a digital format. They would therefore be clearer and have the ability to change often, compared to the poster advertisement on the existing apparatus. I saw

at the site visit that advertisements are readily apparent in the surrounding commercial setting, albeit they generally related to the occupation of commercial property, but I do not consider there is an over proliferation of them.

12. Within this setting, the proposed advertisements would not appear incongruous, and features of the display could be appropriately controlled via conditions to safeguard the visual amenity and the character and appearance of the area.
13. bThus, I find that the appeal scheme is not contrary to policy HC1 of the London Plan, Policies 12 and 13 of the Southwark Core Strategy, saved Policies 3.2, 3.12, 3.13 and 3.18 Southwark Plan 2007 and policies 13, P42 and P55 of the New Southwark Plan and Policies 3.13, 3.15, 3.16 and 3.18 of the Southwark Plan 2022 as referred to by the Council in the Decision notice that, amongst other matters, seek good design quality and to protect the environment, including the historic environment.
14. To conclude, I find that the appeal scheme would not harm the character and appearance of the area and would not harm visual amenity and accordingly, the proposed street hub and advertisements would preserve the character and appearance of the WRCA and No.305.

Conditions

15. the Council has not provided a list of conditions to be imposed in the event that the appeals were allowed. Nonetheless I consider that conditions relating to the time limit and plans list, altering these for each appeal accordingly, are necessary in the interest of clarity.
16. In respect of Appeal A, the five standard conditions as set out in the Regulations will apply. Additionally, to prevent the proposed advertisements from appearing overly distracting and to protect the visual amenity of the area, I have attached conditions relating to the display and transition of images. These reflect the proposed list of conditions included within the appellant's evidence.
17. In respect of Appeal B, I have also added a condition requiring the removal of the existing BT phone box before the installation of the proposed street hub, as this reflects the proposal and ensures there would be no excess clutter in the interests of clarity and certainty.

Conclusion

18. In respect of both Appeal A and Appeal B, the proposals accord with the development plan taken as a whole and there are no other material considerations to suggest that the decisions should be made other than in accordance with the development plan. Therefore, for the reasons given above, and having had regard to all other matters raised, both appeals should be allowed.

Mr M Brooker

INSPECTOR

Appeal A Schedule of Conditions

1. The minimum display time for any advertisement shall be 10 seconds and the change between advertisement images shall take place over a period no greater than one second with no sequencing, fading, swiping or merging of images.
2. The advertisements shall only display static images and shall not display any moving images, animation, intermittent or full motion video images.
3. A mechanism shall be in place so that if the installation breaks down it freezes the image to avoid any flashing error messages or pixilation.
4. The intensity of the illumination of the advertising unit and display permitted by this consent shall be no greater than 600 cd/m² between the hours of dusk (local sunset time) and dawn (local sunrise time).

Appeal B Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 'existing and proposed elevations' dwg no. 003 dated 15.11.2021 and 'proposed site plan' dwg no. 002 dated 15.11.2021.
3. Prior to the commencement of the installation of the proposed BT street hub, the existing BT phone box, as referenced as 'EXISTING 1No. ST6 BT PHONE BOOTH TO BE REMOVED' on approved plan 'proposed site plan' dwg no. 002 dated 15.11.2021 shall be removed and the land restored to a condition which matches the footway immediately surrounding it.

End of Schedule