



Appeal Decisions

Site visit made on 9 November 2023

by Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2023

Appeal A Ref: APP/K5600/W/23/3322184

Pavement South Side of Kings Road, Kensington and Chelsea SW3 4ND

- 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 Mr Martin Stephens, JCDecaux UK, against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref PP/23/00300, dated 13 January 2023, was refused by notice dated 24 March 2023.
 - The development proposed is Installation of an open access communication hub, with integrated advertisement comprises an LCD portrait screen to show static illuminated content remotely changed via a secure ISDN line to communication device.
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Appeal B Ref: APP/K5600/H/23/3322186

Pavement South Side of Kings Road, Kensington and Chelsea SW3 4ND

- 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 Mr Martin Stephens, JCDecaux UK, against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref CA/23/00301, dated 13 January 2023, was refused by notice dated 24 March 2023.
 - The development proposed is installation of an open access communication hub, with integrated advertisement comprises an LCD portrait screen to show static illuminated content remotely changed via a secure ISDN line to communication device.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. There are two appeals at the site. Appeal A relates to the refusal of planning permission, while Appeal B is against the refusal of advertisement consent. They are intrinsically linked and raise similar issues. Therefore, to avoid repetition, I have detailed the findings under a single reasoning section. Nonetheless, each proposal and appeal has been considered individually on its own merits.
4. The descriptions of development in the banner heading above are taken from the appellant's appeal form (and were also used on the Council's decision notices), as opposed to the description used on the original application forms. This is because it provides a more accurate description of the proposed developments.

Main Issues

5. The main issue for Appeal A is the effect of the proposed development on the character and appearance of the Royal Hospital Conservation Area and the setting of nearby listed buildings.
6. The main issue for Appeal B is the effect of the proposed advertisement on visual amenity.

Reasons (Appeal A and Appeal B)

7. The appeal site comprises an area of pavement on the south side of King's Road. King's Road predominantly consists of a range of retail and commercial premises and has a vibrant character. The appeal site is located within an informal pedestrian square that acts as a break between commercial frontages on King's Road, at its junction with Royal Avenue.
8. The site lies within the Royal Hospital Conservation Area (CA), nearby parts of King's Road are also located within the adjoining Chelsea Conservation Area. In accordance with the statutory duty established under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended (the Act), I have paid special attention to the desirability of preserving or enhancing the character and appearance of the CA.
9. The significance of the CA stems in part from the historic development of the area around the site of the current Royal Hospital. The high-quality built environment, that contains a range of attractive residential properties, many dating from the late Georgian or Victorian era (including numerous listed buildings) is also a key aspect of the CA's significance. Despite its urban, built-up character, the CA also has a pleasing verdant quality through the inclusion of pleasant open spaces and numerous mature trees, this also adds to its character and significance.
10. The main focus of the CA is centred upon the Royal Hospital site and surrounding residential streets, nonetheless, Kings Road forms part of the northern boundary of the CA. Indeed, whilst the appeal site and its immediate surroundings may have a more commercial character than majority of the wider CA, I find it still shares positive attributes, through its high-quality streetscape including the presence of mature vegetation.
11. Furthermore, I find the appeal site to positively contribute to the significance of the CA. This is largely due to its function as part of a busy pedestrian thoroughfare, which is relatively uncluttered, and offers clear views of some of the most architecturally impressive buildings in the CA.
12. There is other street furniture in the near vicinity of the appeal site, including benches, bollards, bike/scooter stands, lamp posts, and litter bins. However, the street furniture is generally limited in height and visually unobtrusive, with the area in which the proposed development would be sited remaining rather wide and clear. Indeed, I understand that the area has been designed to enable it to be utilised for temporary uses, for example, pop-up events and public art displays.
13. The design of the proposed street hub is uncomplicated. However, at almost 3m in height and of a generous width, it would be a sizeable and highly prominent item of street furniture. The proposal would incorporate a large,

high-definition display, featuring changing advertisements. Despite, the busy and vibrant commercial nature of King's Road, which includes other examples of advertisements, I find that the size, illumination, and changing nature of the display would result in a rather visually intrusive structure.

14. The proposals would therefore add a visually dominant element, whilst it would also erode the current sense of space and openness in this wide pedestrianised part of the street. Consequently, it would cause harm to the character and appearance of the CA.
15. The appeal site is also located within the setting of several Grade II Listed buildings located on Royal Avenue. As such, in line with S66(1) of the Act, I have had special regard to the desirability of preserving the setting of the listed buildings. The listed buildings¹ comprise terraces of mainly four storey houses (plus basements) that date from early to mid-19th Century. The significance of the buildings largely arise from their age, their fine, decorative architectural and boundary detailing, and their highly unified appearance. The buildings therefore also have group value, as part of a formal grand avenue layout that leads to the entrance of the Grade I Listed Royal Hospital.
16. The listed buildings on Royal Avenue are part of a wide street that overlook an attractive, central area of open space that is lined with mature trees. Their setting is therefore largely defined by the space along Royal Avenue and the grounds of the Royal Hospital. However, views down Royal Avenue from King's Road are a key focal point in the area and the wide space in which the appeal proposal would sit also forms an extended part of the setting of the listed buildings. Indeed, I find that the current sense of space and relative lack of clutter around the appeal site, positively contributes to the setting of the listed buildings.
17. The proposed development has a slender side profile and would be orientated so that it would not be highly perceptible from much of Royal Avenue. However, it remains that the unit would be experienced, together with the listed buildings as a close backdrop, in key views from King's Road. As such, for the same reasons I find that the proposal would cause harm to the CA, it would also extend to the setting of the listed buildings and the contribution it makes to their significance.
18. Given the scale and nature of the proposed hub, the harm that would arise to the designated heritage assets would be less than substantial. As per the National Planning Policy Framework (the Framework) the harm to the heritage assets should be weighed against any public benefits of the proposal.
19. The proposed development under Appeal A and B would provide various public benefits. These include the provision of Wifi-connections, free phone calls, wayfinding tools, device charging, rapid emergency call features, provision of a defibrillator, as well as public messaging and interactive technology capabilities. The hub would also be powered by renewable energy. These are public benefits to which I give meaningful weight.
20. Nonetheless, the Framework establishes that great weight should be given to the conservation of designated heritage assets. Overall, I consider that the less

¹ E.g. numbers 2 – 8 Royal Avenue (Even); 10 – 24 Royal Avenue (Even); 26 – 48 Royal Avenue (Even) and 17 – 43 Royal Avenue (Odd).

than substantial harm that would arise from the proposal would not be outweighed by the public benefits.

21. In reaching this view, I am mindful that the proposed communication hub would also embrace the Framework's objective of supporting advanced, high-quality communications infrastructure. Nevertheless, when read as a whole, the Framework seeks to ensure that new developments preserve character and appearance and also protect designated heritage assets.
22. Consequently, in respect of Appeal A, the proposal would harm the character and appearance of the CA and the setting of nearby listed buildings. Likewise, the reasoning above is also applicable to Appeal B, in respect of the effects of the proposed advertisements on amenity. The proposal would therefore also have an unacceptable effect on the amenity of the area.
23. Accordingly, both Appeal A and B are contrary to Policies CL1, CL3, CL4, CL11, CT1 and CR4 of the Royal Borough of Kensington and Chelsea Local Plan 2019. Together these policies, amongst other matters, seek to ensure that developments are well designed, sensitive to their context, and preserve or enhance the character and appearance of designated heritage assets. Similarly, the appeal schemes also conflict with the aims of the Framework in respect of conserving and enhancing the historic environment.

Other Matters

24. I am aware that similar telecommunications apparatus was previously approved² nearby to the site on King's Road, but was subsequently removed in 2016 to enable the Council to undertake planned street-work improvements. Additionally, the appellant has also drawn my attention to a similar consent³ for the installation of a BT Payphone Kiosk with illuminated advertisement display outside no. 49 King's Road.
25. I recognise that these previous permissions were in very close proximity to the current appeal site. However, from my observations, it appears that the current proposed development would be sited in a more visually prominent position, whilst also being more sensitive in respect of heritage assets. I also understand that whilst those previous permissions may have been for development of a similar nature, they involved the removal of existing phone kiosks, thereby reducing or avoiding an increase in street furniture. Consequently, I do not find the previous permissions to be comparable to the scheme before me.

Conclusion

26. For the reasons given above, having considered the development plan as a whole, the approach of the Framework, and all other material considerations, both Appeal A and B are dismissed.

Lewis Condé

INSPECTOR

² Appeal Reference: APP/K5600/H/13/2191863 - Pavement outside 41 Kings Road, London, SW3 4QE

³ LPA Reference: CA/16/04197 - Basement and Ground Floor South, 49 King's Road, SW3 4ND