The Planning Inspectorate

Appeal Decisions

Site visit made on 30 October 2023

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2023

Appeal A Ref: APP/Z5630/W/22/3305158
Pavement o/s Dominos, 126 The Broadway, Tolworth, Kingston upon Thames KT6 7HT

- 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 Council of the Royal Borough of Kingston upon Thames.
- The application Ref 22/01538/FUL, dated 28 April 2022, was refused by notice dated 5 July 2022.
- The development proposed is the installation of 1 new BT Street Hub, incorporating 75 inch LCD advert screens plus the removal of associated BT kiosk(s).

Appeal B Ref: APP/Z5630/H/22/3305159
Pavement o/s Dominos, 126 The Broadway, Tolworth, Kingston upon Thames KT6 7HT

- 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 Council of the Royal Borough of Kingston upon Thames.
- The application Ref 22/01539/ADV, dated 28 April 2022, was refused by notice dated 5 July 2022.
- The advertisement proposed is 2 digital LCD display screens, 1 on each side of the Street Hub unit.

Decisions

Appeal A:

1. The appeal is allowed and planning permission is granted for the installation of 1 new BT Street Hub, incorporating 75 inch LCD advert screens plus the removal of associated BT kiosk(s) in accordance with the terms of the application Ref 22/01538/FUL, dated 28 April 2022, subject to the conditions set out in the attached Schedule.

Appeal B:

2. The appeal is allowed and express consent is granted for the display of 2 digital LCD display screens, 1 on each side of the Street Hub unit as applied for. The consent is for 5 years from the date of this decision, subject to the 5 standard conditions set out in the Regulations and the additional conditions set out in the attached Schedule.

Preliminary matters

3. These 2 appeals relate to the same structure so are dealt with together, though each is considered on its own merits. Appeal A seeks planning permission for the hub, whilst Appeal B asks for advertisement consent for 2 digital signs.

4. The appeals site address is listed as The Broadway on the application form, but the street appears to be more commonly referred to as Tolworth Broadway.

Main Issues

5. Appeal A - The main issues are the effects of the proposals on:
   i) The character and appearance of this part of Tolworth Broadway;
   ii) Public safety, including highway safety and safety from crime; and
   iii) The energy consumption of the proposed Street Hub.

6. Appeal B - Advertisements are subject to control in the interests of amenity and public safety only. The main issues are the effects of the proposed signage on:
   (i) The visual amenity of this part of Tolworth Broadway; and
   (ii) Public safety, in terms of the safety of public highway users.

Reasons

Character and appearance/visual amenity (both appeals)

7. This part of Tolworth Broadway is a commercial centre at the edge of a roundabout junction linking Tolworth Broadway (A240) to the A3 dual carriageway, which passes through in a cutting. The proposed siting is in the middle of a wide, open area of pavement, near to steps serving a pedestrian underpass. The pavement available to pedestrians narrows in both directions due to street furniture, seating and car parking.

8. The appellant explains that its Street Hub installations provide encrypted wifi, phone calls, direct emergency call buttons, accessibility features, electrical charging ports, community and emergency message display and environmental sensors. The hub would be a nearly 3m tall, narrow, flattened structure with an integrated digital advertisement display on each side. The appellant indicates that the digital advertisements would be designed and controlled in accordance with the recommendations of Institute of Lighting Professionals' guide *The Brightness of Illuminated Advertisements* and Transport for London's *Guidance for Digital Roadside Advertising and Proposed Best Practice*. The 2 existing phone kiosks indicated for removal are in different locations, well away from the appeal site.

9. This part of Tolworth Broadway is heavily commercialised, with street lighting and numbers of illuminated shop signs. The proposed illumination, sleek modern style, dark colours and scale of the structure would fit reasonably comfortably into this context. It would be prominently sited on its own, in the middle of the pavement, but the pavement bends here and there are visual obstructions nearby, so that there would be no unobstructed long views of the hub. It would not be a focal point in any important views.

10. I conclude that, subject to conditions controlling the illuminated advertisement displays, the proposals would not harm the character, appearance or visual amenity of this part of Tolworth Broadway. They accord in this respect with policy D3 of The London Plan (TLP) and policies CS8 and DM10 of the Council's Core Strategy (CS), which require a high standard of design that responds to the local distinctiveness of streets.

Safety (both appeals)

11. The proposed hub would be sited to the side of the A240 at a point where traffic is entering the commercial centre from the roundabout and is approaching a signal controlled pedestrian crossing. The hub would be set well back from the carriageway and away from drivers' main view lines. Drivers would furthermore be well past the hub before reaching the crossing. Drivers on the other side of the road, entering the roundabout, would be far away from the hub. The proposal would not therefore form a significant distraction or otherwise interfere with driver's ability to safely negotiate this stretch of road.

12. This part of the street appears to have medium to heavy pedestrian flows, with cross movements to and from the underpass, the pedestrian crossing, nearby car parking, shops and restaurants. The hub would be set away from other street furniture so is a potential obstruction. Its proposed location within a localised widening of the pavement, however, means that there would be ample space on both sides for people to pass. No bottleneck would be formed and pedestrians would not be forced into the carriageway or otherwise put into a dangerous situation.

13. The Council is also concerned, in relation to Appeal A, that the Hub would not incorporate sufficient measures to design out crime. The appellant confirms that this is an important issue and that some existing BT phone kiosks have been shown to be a magnet for crime when they fall into disrepair. The issue is addressed in the submitted *BT Street Hub Anti-Social Behaviour Management Plan*. Any installation of this type will be subject to potential misuse but in the absence of any specific, detailed concerns from the Council I find that implementation of the management plan should provide an adequate safeguard against crime and anti-social behaviour.

14. I conclude that the proposal would not prejudice public safety. It accords in this respect with TLP policies D3 and D8, CS policies DM8 and DM10 and the National Planning Policy Framework (the Framework), which aim to ensure that new development does not compromise highway safety and in more general terms achieves a safe environment, including measures to design out crime.

Energy use (Appeal A only)

15. The appellant advises that energy efficiency has been a priority of the design process, so that the hubs are run using 100% renewable, carbon-free energy. The Council's concern is that this has not been adequately demonstrated in line with the aim of TLP policy S12 and the Framework, to minimise carbon emissions. Policy S12, however, only relates to major developments so is not directly relevant. The Framework does not contain any specific and applicable requirements. I therefore conclude that the proposal would not conflict with these policies.

Other matters

16. I have considered all other matters raised. Transport for London (TfL) suggests that there is no need for this phone facility due to the existence of 2 phone kiosks nearby. In the absence, however, of any substantive planning objection to the proposal there is no requirement to show overriding need.

17. The Council and TfL also refer to a 4 for 1 removal/replacement principle agreed for the Street Hub roll-out programme. I have not seen this agreement or any evidence of its planning status. I consequently give it very limited weight. The removal of 2 kiosks as proposed would be sufficient to reasonably balance the introduction of new street furniture here, minimising overall clutter. I also note TfL's concern that the development might not meet the 10 Healthy Street indicators set out in TLP Policy T2, but it has not demonstrated any lack of compliance. Finally, although TfL is concerned about parking for construction vehicles, on-street parking is available near to the site.

Conditions

18. Both main parties were given the opportunity to comment on the conditions set out in the 2 schedules below. The only point raised was about the brightness of the advertisements. For both appeals, conditions specifying the relevant plans are imposed to provide certainty.

19. Appeal A - A condition requiring implementation in line with adopted management plans and specifications is needed to minimise the potential for crime and noise disturbance and to ensure the development provides services as stated. A condition requiring the removal of 2 other phone kiosks as proposed is needed to reasonably minimise street clutter.

20. Appeal B – Conditions regarding illumination, special effects and image transitions are imposed in line with guidance to protect both public safety and local character and appearance. The appellant has asked for much brighter displays than specified by the condition below. Although this higher intensity of illumination is included in the *Street Hubs Beyond Connection – Street Hub Product Statement*, there does not appear to be any clear justification for this in published guidance. The condition as imposed aligns with TfL's requested limits and also generally aligns with the guidance for this type of urban area in the Institute of Lighting Professionals' guide *The Brightness of Illuminated Advertisements*. The condition's limit for daylight hours is less than the maximum recommended in that document, but this is justified here in view of the size and prominence of the advertisements in comparison to other nearby signs.

Conclusions

21. For the reasons set out above I conclude that both appeals should succeed and that planning permission and advertisement consent should be granted.

Les Greenwood

INSPECTOR

(Schedules of conditions follow)

APPEAL A: SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001A; 002A, 003A and BT Proposed Street Hub Renders 2021.

3) Except in regard to intensity of illumination, the development hereby permitted shall be carried out and thereafter maintained and operated in accordance with the details set out in the following documents*: Street Hub Anti-Social Behaviour Management Plan Version 2* (2021); *Street Hub Noise Management Plan Version 2* (2021); and *Street Hubs Beyond Connection – Street Hub Product Statement Version 1.0* (2021).

4) The development hereby permitted shall not be brought into use until the 2 telephone kiosks at the following locations have been removed and the pavements reinstated: (i) pavement o/s Tolworth Station car park, Kingston Road, Surbiton KT5 9NX (E519858, N165680); and (ii) Pavement o/s 2 Clayton Road, Hook, Chessington KT9 1NE (E517922, N164453).

APPEAL B: SCHEDULE OF ADDITIONAL CONDITIONS

1) The advertisements permitted by this consent shall be carried out in accordance with the following approved plans: 001A; 002A; 003A and BT Street Hub Proposal Renders 2021.

2) The intensity of the illumination of the advertisements permitted by this consent shall be no greater than 280 cd/m^2 between dusk and dawn and no greater than 600 cd/m^2 at all other times.

3) The advertisements permitted by this consent shall have no special effects (including noise, smell, smoke animation, exposed cold cathode tubing, flashing, scrolling, three dimensional, intermittent, or video elements) of any kind.

4) The minimum time between successive displayed images of the advertisements permitted by this consent shall be 10 seconds and any sequential change between advertisements will take place over a period no greater than 1 second.

5) The advertisements permitted by this consent shall have no visual effects of any kind to accompany the transition between any 2 successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method.