

# Appeal Decisions

Site visits made on 9 November 2023

**by G Powys Jones MSc FRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 December 2023

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## All Appeals

- The appeals are made by Mr Martin Stephens of J C Decaux UK Ltd against the decisions of Brighton & Hove City Council
- All the applications were dated 10 August 2022.

## Appeals A, C, E, G, I, K, M & O

- The planning appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission.
- Each planning proposal is described as the installation of a multifunctional communication hub including defibrillator and advertisement display.

## Appeals B, D, F, H, J, L, N & P

- The advertisement appeals are made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - Each proposed advertisement is described as the installation of a multifunctional communication hub including defibrillator and advertisement display.
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### Appeal A Ref: APP/Q1445/W/22/3311778

**Pavement outside Ibis Hotel, 88-92 Queen's Road, Brighton, BN1 3XE**

- The application Ref BH2022/02539 was refused by notice dated 8 November 2022
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### Appeal B Ref: APP/Q1445/H/22/3311791

**Pavement outside Ibis Hotel, 88-92 Queen's Road, Brighton, BN1 3XE**

- The application Ref BH2022/02540 was refused by notice dated 8 November 2022
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### Appeal C Ref: APP/Q1445/W/22/3311780

**Pavement outside Hanover House, 112 Queens' Road, Brighton BN1 3XG**

The application Ref BH2022/02541 was refused by notice dated 8 November 2022.

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**Appeal D Ref: APP/Q1445/H/22/3311793**

**Pavement outside Hanover House, 112 Queens' Road, Brighton BN1 3XG**

- The application Ref BH2022/02542 was refused by notice dated 8 November 2022.

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**Appeal E Ref: APP/Q1445/W/22/3311781**

**Pavement outside Sainsbury's 134 North Street, Brighton, BN1 1RG**

- The application Ref BH2022/02543 was refused by notice dated 8 November 2022.

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**Appeal F Ref: APP/Q1445/H/22/3311804**

**Pavement outside Sainsbury's 134 North Street, Brighton, BN1 1RG**

- The application Ref BH2022/02544 was refused by notice dated 8 November 2022.

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**Appeal G Ref: APP/Q1445/W/22/3311785**

**Pavement outside Metro Bank, 82 North Street, Brighton BN1 1ZA**

- The application Ref BH2022/02547 was refused by notice dated 8 November 2022.

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**Appeal H Ref: APP/Q1445/H/22/3311797**

**Pavement outside Metro Bank, 82 North Street, Brighton BN1 1ZA**

- The application Ref BH2022/02548 was refused by notice dated 8 November 2022.

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**Appeal I Ref: APP/Q1445/W/22/3311783**

**Pavement outside Jury Inn, King's Road, Brighton, BN1 2GS**

- The application Ref BH2022/02545 was refused by notice dated 21 November 2022

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**Appeal J Ref: APP/Q1445/H/22/3311796**

**Pavement outside Jury Inn, King's Road, Brighton, BN1 2GS**

- The application Ref BH2022/02546 was refused by notice dated 8 November 2022.

**Appeal K Ref: APP/Q1445/W/22/3311788**

**Pavement outside Costa, 193 Western Road, Brighton, BN1 2BA**

- The application Ref BH2022/02549 was refused by notice dated 7 November 2022.
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**Appeal L Ref: APP/Q1445/H/22/3311799**

**Pavement outside Costa, 193 Western Road, Brighton, BN1 2BA**

- The application Ref BH2022/02550 was refused by notice dated 7 November 2022
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**Appeal M Ref: APP/Q1445/W/22/3311790**

**Pavement outside Waitrose, 130-134 Western Road, Brighton BN1 2LA**

- The application Ref BH2022/02553 was refused by notice dated 8 November 2022
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**Appeal N Ref: APP/Q1445/H/22/3311794**

**Pavement outside Waitrose, 130-134 Western Road, Brighton BN1 2LA**

- The application Ref BH2022/02554 was refused by notice dated 8 November 2022.
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**Appeal O Ref: APP/Q1445/W/22/3311789**

**Pavement outside 56 Western Road, Brighton, BN1 2HA**

- The application Ref BH2022/02551 was refused by notice dated 23 November 2022
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**Appeal P Ref: APP/Q1445/H/22/3311801**

**Pavement outside 56 Western Road, Brighton, BN1 2HA**

- The application Ref BH2022/02552 was refused by notice dated 8 November 2022
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**Decisions - Appeals A & B**

1. Appeal A is allowed, and planning permission is granted for the installation of a multifunctional communication hub including defibrillator and advertisement display on pavement outside Ibis Hotel, 88-92 Queen's Road, Brighton, BN1 3XE in accordance with the terms of the application, Ref BH2022/02539, dated
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10 August 2022, in accordance with the conditions set out in the attached schedule.

2. Appeal B is allowed, and express consent is granted for the installation of a multifunctional communication hub including defibrillator and advertisement display 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 schedule.

#### **Decisions - Appeals C & D**

3. Appeal C is allowed, and planning permission is granted for the installation of a multifunctional communication hub including defibrillator and advertisement display on pavement outside Hanover House, 112 Queens Road, Brighton BN1 3XG in accordance with the terms of the application, Ref BH2022/02541, dated 10 August 2022, in accordance with the conditions set out in the attached schedule.
4. Appeal D is allowed, and express consent is granted for the installation of a multifunctional communication hub including defibrillator and advertisement display 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 schedule.

#### **Decisions - Appeals E & F**

5. Appeal E is allowed, and planning permission is granted for the installation of a multifunctional communication hub including defibrillator and advertisement display on pavement outside Sainsbury's, 134 North Street, Brighton BN1 1RG in accordance with the terms of the application, Ref BH2022/02543, dated 10 August 2022, in accordance with the conditions set out in the attached schedule.
6. Appeal F is allowed, and express consent is granted for the installation of a multifunctional communication hub including defibrillator and advertisement display 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 schedule.

#### **Decisions - Appeals G & H**

7. Both appeals are dismissed.

#### **Decisions - Appeals I & J**

8. Both appeals are dismissed.

#### **Decisions - Appeals K & L**

9. Both appeals are dismissed.

#### **Decisions - Appeals M & N**

10. Appeal M is allowed, and planning permission is granted for the installation of a multifunctional communication hub including defibrillator and advertisement display on pavement outside Waitrose, 130-134 Western Road, Brighton, BN1

2LA in accordance with the terms of the application, Ref BH2022/02553, dated 10 August 2022, in accordance with the conditions set out in the attached schedule.

11. Appeal N is allowed, and express consent is granted for the installation of a multifunctional communication hub including defibrillator and advertisement display 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 schedule.

### **Decisions - Appeals O & P**

12. Both appeals are dismissed.

### **Preliminary and procedural matters**

13. The appeals involve 8 sites within Brighton City Centre. Separate applications for planning permission and advertisement consent were made for identical proposals on all sites. I use the same description as utilised by the appellant for all appeals, but for the absence of doubt, the hub structures are the subject of the s78 planning appeals and the advertisement displays are the subject of the separate advertisement appeals.
14. The hubs are comprised of free-standing rectangular units measuring approximately 2.6m high, 1.3m wide and just over 300mm in thickness. The appellant says that the hubs offer *'...a range of services that include free ultrafast 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 facilities are provided on one side of a hub under a curved canopy which also acts as a solar panel.
15. The intention is that all the facilities are provided free of charge<sup>1</sup> to the public to be paid for by the revenue generated by the digital advertising screen provided at the rear, on the other side of the hub. The advertisement display occupies most of the hub's rear surface area. Whilst the material displayed would be static, the nature of the display would change on a timed basis.
16. The Council considers that the facilities provided by the hubs, especially the proposed defibrillators, would have limited public benefit which would be welcomed in principle, but considers in all cases that this would be outweighed by the harm caused. I attribute more weight to the public benefits offered by the provision of the hubs than does the Council.
17. Several development plan policies have been referred to by both parties, in respect of both the s78 and Advertisement appeals. I consider the most relevant are BHCP1<sup>2</sup> policies: CP12 which aims amongst other matters to raise the standard of design in the City; CP13 which seeks to improve the quality of the City's public streets and spaces; those aspects of CP9 directed to promote and provide measures that would help to manage and improve mobility and to encourage and enable walking and, where applicable, CP15 whose aims include conserving and enhancing the City's heritage.

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<sup>1</sup> Other than in certain circumstances

<sup>2</sup> Brighton and Hove City Plan Part One

18. Additionally, BHCP2<sup>3</sup> policy DM25, which sets out the criteria for determining planning applications for communications infrastructure; policies DM26 & DM27 which set out criteria for determining development in conservation areas and that affecting the setting of Heritage Assets, and policy DM33 which amongst other matters seeks to prioritise and encourage walking in the City and maintain or improve wheelchair accessible routes.
19. In respect of the advertisement appeals, the *Town and Country Planning (Control of Advertisements) (England) Regulations 2007* and the *National Planning Policy Framework* (the Framework) both clarify that advertisements should be subject to control only in the interests of amenity and public safety. In this context, in dealing with the advertisement appeals, I have treated the development plan policies referred to as material considerations.
20. Reference is made to the Council's Supplementary Planning Document on Advertisements, a material consideration, and to a document entitled '*Brighton and Hove City Council's Local Cycling and Walking Infrastructure Plan*'. The latter does not form part of the Local Development Framework, but I note that it has been subject to public consultation, and it attracts moderate weight as a material consideration.
21. The appellant also relies, in part, on a Transport for London (TfL) document on issues including footway widths and capacities. I have taken its contents into account as a material consideration, and although it relates to another part of the United Kingdom it contains useful reference material and attracts some weight.
22. The hubs are, without exception, intended to be provided on what the appellant describes as '*the pavement*' or on footways forming part of the highway next to the carriageway. The advertisement displays are therefore intended to be seen by pedestrians and passing motorists alike. However, the Council raises no concerns in any of the cases as to the possible effect of the hubs on passing motorists. Having regard to what I saw, I have no reason not to share the Council's stance on this aspect, subject to my later comments when dealing with conditions.
23. The representations made by various individuals, amenity and other bodies have been noted. I should emphasise, as stated above, that in the case of the advertisement appeals the Regulations require me to assess the proposals within the defined criteria. The other comments made, and points raised are dealt with as material considerations and have been taken into account in all decisions.
24. I have taken account in all s78 decisions of the Council's view of the detailed design of the proposed hubs.
25. The Council, as Highway Authority, is reported in the representations as saying that it is unlikely to grant licences for the erection of the hubs irrespective of the planning outcomes. For the avoidance of doubt, licencing is subject to a separate legal process and is not therefore a matter before me.
26. I have considered all the proposals on their individual merits, as required.

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<sup>3</sup> Brighton and Hove City Plan Part Two

## **Main issues**

27. The main issues for all appeals are:

- a) the effect of the proposals on the character and appearance of the surrounding area and its amenity, including, where applicable, the setting of listed buildings and whether the proposal would preserve or enhance the character and appearance of conservation areas, and
- b) The effect of the proposals on the movement of pedestrians and other footway users (including those with restricted mobility and wheelchair users) and public safety.

## **Reasons**

### *Appeals A & B*

28. The hub would be sited outside the Ibis Hotel which is situated on a busy road just south of Brighton's main rail station. Queen's Road acts as a pedestrian link between the station and the City's main retail areas and beyond, the seafront, which are both within comfortable walking distance. Just outside the hotel are bus stops with associated shelters, and at the time of my visit, two buses were parked with their engines off. The stops, accordingly, appear to act as a form of terminus for certain bus routes.
29. The buildings lining the eastern frontage of this part of Queen's Road, including the Ibis Hotel, are all fairly tall, of recent, modern origin, and I do not therefore consider that the proposed development, taking account of its modern design and relatively small scale, would look out of place in this environment. The amount and level of street furniture in the vicinity of the site is not excessive, no more than one would normally expect to see in a city centre. I do not therefore consider the Council's visual amenity objections to be justified either to the s78 or advertisement proposal.
30. The businesses on Queen's Road generate their own level of pedestrian activity and as already mentioned, the road also acts as a pedestrian link between the station and beyond. I saw a moderate level of pedestrian activity in the area. But Queen's Road has two footways, and the one on the other side of the road is wider than that directly outside the Ibis. It also appeared to be better used when I visited.
31. Judging from the appellant's photographs submitted with the original applications, new tree planting appears to have taken place since outside the hotel, adjacent to the bus stops in beds formed by setts or blocks. These have the effect of narrowing the footway, but I saw no ill-effects on passing pedestrians or on those people awaiting buses. The proposed hub would have no greater effect on pedestrian movement than the tree planting, which I assume was undertaken by the Council, or with its consent. Sufficient room would remain in the footway to ensure that those using the footway or bus stops would not be materially affected by the erection of the hub, and I am content that public safety would not be put at risk.
32. I therefore conclude that neither the proposed hub nor the display would harm the character and appearance of the surrounding area or harm amenity and would not harmfully affect the movement of footway users or their safety.

Accordingly, no conflict arises with the provisions and requirements of the most relevant development plan policies identified earlier.

#### *Appeals C & D*

33. This site is also in Queen's Road a relatively short distance to the south of the Ibis Hotel, and outside Hanover House, a comparatively modern, tall building of undistinguished appearance which appears to be largely used for community purposes. On the opposite side of the street the buildings are of a smaller scale, whose appearance more closely resembles that of traditional Brighton.
34. Taking account of the appearance, height and scale of Hanover House, and the relative scale of the appeal proposal, the hub would not stand out as inappropriate in this visual context. It would be noticeable only at close quarters and would not materially impact on the setting of the more traditional buildings on the opposite frontage. Although I saw some cycle parking loops and refuse receptacles in the vicinity of the site, there was insufficient other evidence to persuade me that the hub would cause visual clutter. Accordingly, I conclude that neither the hub nor the display would appear objectionable or cause harm to amenity or the character and appearance of the surroundings.
35. As in the case of the appeals outside the Ibis Hotel, footways are evident on either side of the street. The one on the opposite frontage to the appeal site appears to be the more attractive in that it is raised above carriageway level and fronted by decorative railings. This appeared to be reflected in the levels of pedestrian usage when I visited.
36. The proposed hub would to my mind cause no more obstruction to pedestrians or other footway users than the bin receptacles that I saw or indeed the cycle loops, when used for their designed purpose. Moreover, as I saw when my visit was interrupted by a shower, most pedestrians take a route on the inside of the footway underneath the canopy projecting from Hanover House in inclement weather. This route would be unaffected by the hub were it erected.
37. In my view, neither the erection of the hub nor the display would cause unacceptable effects relating to the movement of pedestrians and other users of the footway or harm public safety.
38. I therefore conclude that neither the proposed hub nor the display would harm the character and appearance of the surrounding area or harm amenity and would not harmfully affect the movement of footway users or their safety. Accordingly, no conflict arises with the provisions and requirements of the most relevant development plan policies identified earlier.

#### *Appeals E & F*

39. The site is located on the footway just outside a Sainsbury's supermarket, and close to a bus stop with its associated shelter. North Street's northern frontage from its junction with Queen's Road for a considerable distance to the east, beyond the appeal site, is occupied by relatively modern commercial buildings reflecting its 'High Street' location. On the opposite frontage most upper floors of the properties retain those characteristics reflecting the era in which they were built, but their ground floors have been transformed by modern shop fronts. All in all, in terms of its perceived character and appearance, the site

lies within a busy commercial area dedicated for the most part to retail activities.

40. In this distinctly commercial environment, I do not consider that the proposed structure would look out of place or cause visual harm. Street furniture in the vicinity is at a level one could reasonably expect in a City Centre, and is not excessive, and the addition of the unit would not cause clutter as feared by the Council. Taking account of the number of shop fronts in close proximity, with almost all illuminated during the day, the advertisement display would not in my view cause harm to amenity.
41. The footway outside the supermarket is over 5m wide, and the hub would be erected near the kerb. I looked carefully at the level of pedestrian movement taking place alongside the nearby bus shelter and saw that pedestrian flow was not harmfully impeded by its presence. The hub would not have dissimilar effects on pedestrians, and I consider that there would be ample room left to cater for safe pedestrian movement along the footway to avoid congestion arising, or any issue relating to public safety.
42. I therefore conclude that both the hub and the advertisement could be erected and displayed without harming the character and appearance of the site's surroundings or amenity, and without harming public safety or the interest of footway users. Accordingly, no conflict arises with the provisions and requirements of the most relevant development plan policies identified earlier.

#### *Appeals G & H*

43. The site for the proposed hub is prominently located outside the Metro Bank, which is housed within a building on a corner where North Street merges with Western Road. This is at the commercial heart of the city close to the Churchill Square Retail centre. Immediately to the west, along both sides of Western Roads are several bus stops, with their associated shelters. I saw that many of the shelters displayed advertisements, including those with a digital display<sup>4</sup>.
44. The level and extent of street furniture in the area is relatively high and, given the prominent position of the hub's siting, I consider that it would add unacceptably to the level of clutter seen locally, materially affecting visual amenity.
45. The hub would be sited close to a light controlled pedestrian crossing. This was in constant use during my visit given the demands made on it in view of its position where several streets converge, and its closeness to the central bus stops, the Churchill Centre and other shops and attractions. Put simply, I saw that this was a location of high pedestrian footfall, and that pedestrians constantly congregated in some numbers on either side of the lights, awaiting their change.
46. To my mind the hub would be sited in a position close to the pedestrian crossing where it would likely cause obstruction to pedestrians and other users of the footpath, causing harmful congestion and probably putting public safety at risk.

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<sup>4</sup> I note the references made by both parties to their planning history in the representations.

47. I conclude that the effect on local character and appearance and amenity would prove harmful and unacceptable. I also find against the proposals in respect of the effect on pedestrian users and public safety. The harm I have found outweighs the public benefits arising from the development and display. Accordingly, a clear conflict arises with the provisions and requirements of the most relevant development plan policies identified earlier.

#### *Appeals I & J*

48. The appeal site faces the seafront in King's Road, being described as outside Jury's Hotel, which now appears to be called the Leonardo Royal Hotel. The site lies within the Old Town Conservation Area (CA), and the Council point me to the presence of a listed building at 16 King's Road<sup>5</sup> and a locally listed building at Nos 32-38 King's Road<sup>6</sup>.

49. Having regard to the statutory tests, the appellant's main rationale for justifying the erection of the hub within the CA is that it would be sited outside a building of a modern appearance, which in the appellant's opinion makes no positive contribution to character or appearance. I find it difficult to disagree with the appellant's assessment of the architectural merits of the hotel. However, the CA is not comprised of a single building, and there are many other buildings within visible striking distance which make a positive contribution to the Area, including, amongst others, those heritage assets already described.

50. The hub would be sited in a prominent position close to the edge of the footway in full view of passing motorists and pedestrians for a significant length of King's Road. A cash machine/phone box was evident locally, but this was surreptitiously tucked away around the corner of the hotel in Black Lion Street. Otherwise, I saw very little street furniture on this part of the sea front. To my mind, the hub would stand out conspicuously and incongruously. Far from preserving or enhancing the CA's character and appearance it would cause visual harm, and the advertisement display would harm local amenity. I also consider that the nearby listed building's setting would be harmed, although the harm would be relatively minor.

51. The harm caused to the significance of the CA would be less than substantial. Having regard to the requirements of the Framework<sup>7</sup>, the harm should be weighed against the public benefits of the scheme. I have already acknowledged the public benefits that the hub would bring, but in this case, they do not outweigh the harm I have found.

52. Given the generous width of the footway I do not consider that the hub would cause problems to footway users by reason of physical obstruction or congestion. However, I noted that the hub would be sited close to a slip road used by vehicles, including taxis leaving King's Road. Pedestrians need to cross the slip road, and provision is made for them with a dropped kerb. The hub in my view would obstruct westward visibilities for pedestrians crossing the slip road and affect their safety.

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<sup>5</sup> Referred to in the representations as Doctor Brighton's Public House (Grade II) now operating under a different name.

<sup>6</sup> The Old Ship Hotel

<sup>7</sup> National Planning Policy Framework, paragraph 202

53.I therefore conclude that the proposed hub and the display would harm the character and appearance of the CA and harm amenity and would put the safety of pedestrians at risk. Accordingly, a clear conflict arises with the provisions and requirements of the most relevant development plan policies identified earlier.

#### *Appeals K & L*

54.The site is situated outside Costa on the northern frontage of Western Road less than 200m westwards of the site of appeals *G & H* on the opposite side of the road. Works were taking place to modify the footway and carriageway when I visited but were incomplete so that the main purpose of the works was not fully apparent.

55.The character of the area closely resembles that of appeal sites *G & H*, being distinctly commercial and busy, not least because of the numerous shops, cafes, bus stops and shelters along this and the opposite frontage. I saw that the several bus stops display advertising material including digital displays. The level of street furniture along this frontage is significant, and I consider that the siting of the hub would cause additional and harmful visual clutter. Another digital display, to my mind, would add to the existing visual congestion and harm amenity.

56.The bus stops cause a narrowing of the footway close to the site in an area of high pedestrian footfall. I also noted that Costa put tables outside on the footway for the benefit of their customers, thus further narrowing its practical width. The addition of the proposed hub, where the width of the well populated footway is already effectively reduced, would in my view cause unnecessary and harmful obstruction to footway users.

57.I therefore conclude that the proposed hub and the display would harm the character and appearance of the surrounding area and harm amenity and would harmfully impede pedestrians and other users of the footway. Accordingly, a clear conflict arises with the provisions and requirements of the most relevant development plan policies identified earlier.

#### *Appeals M & N*

58.The site is outside a two-storey Waitrose supermarket, and judging from the appellant's submitted photographs, works have recently taken place in the footway outside. The hub would be sited close to the store's main pedestrian entrance. Set against the background of the store's bulk and its ground floor window display it would, in my view, prove unobtrusive. The display would be seen against the background of the store's large, illuminated window panels and would not in my view prove harmful to amenity. I saw little evidence of other street furniture along this part of Western Road's frontage, so I do not share the Council's views on clutter.

59.The Council refer me to two listed buildings in the area (*Grade II*), but these are relatively divorced from the site's visual influence and their setting would not thus be harmed.

60.The footway to my mind is sufficiently wide to accommodate the hub without causing harm to footway users. Indeed, as I observed on what was a showery

day, most pedestrians' desire line was on the footway beneath Waitrose's projecting canopy. The hub would be sited well clear of this.

61. I therefore conclude that the hub and its' associated display would sit acceptably in this visual context without harming visual amenity, and that the hub would not inconvenience footway users or harm public safety. Accordingly, no conflict arises with the provisions and requirements of the most relevant development plan policies identified earlier.

### *Appeals O & P*

62. This site is just outside 56 Western Road, between and on the opposite side of the street to two of the other appeal sites on Western Road already dealt with. The property stands on a corner, at the junction of Western Road and Clarence Square. It falls within the Regency Square Conservation area (CA), whose northern boundary runs along the middle of Western Road.
63. Notwithstanding its heritage designation, the greatest influences on local character are road traffic and the commercial nature of the surroundings. The shop fronts and fascia signs on this section of Western Road are not particularly attractive and do little to contribute to the significance of the CA. To my mind, in the prevailing environment, the hub structure would have a neutral impact on its surroundings and the CA's character and appearance would thus be preserved. The display, largely for similar reasons, would not harm visual amenity.
64. When I visited, sizeable mobile bin receptacles were parked on the footway outside the appeal property, and a sign was placed in the footway outside the next-door business. I also saw that the appeal property, which now houses a small supermarket on the ground floor, had greengrocery stalls outside the store partly on the footway. People stopped on the footway to examine the goods on display and to be served. All these activities to a greater or lesser extent caused obstruction and hindered pedestrian movement. I fully appreciate that what I saw may represent pedestrian activity for a short period of time, but my site visit is the main source of practical evidence available. The addition of the hub, in my view, would cause an unacceptable level of hindrance and nuisance to pedestrian movement and since the appeal site is situated on a corner the hub would likely reduce public safety.
65. Accordingly, whilst I find on balance in favour of the appellant in respect of visual amenity issues, notwithstanding the site's location within a CA, I find against him on issues relating to the ability of pedestrians and others to use the footway in safety without suffering hindrance or obstruction. This is sufficient reason to dismiss the appeal, particularly having regard to the conflict arising with the objectives of policy CP9 of The BHCP1 and policy DM33 of the BHCP2.

### **Conditions**

66. In respect of the allowed appeals, I have considered the main parties' suggested conditions. Having regard to what I saw at my site visits I do not consider that any specific conditions are needed for any particular site. Accordingly, the conditions to be imposed apply to all those sites subject to permissions or consents.

*The s78 appeals.*

67.A condition to the effect that the development shall be carried out in accordance with the approved plans is imposed in the interests of certainty and for the avoidance of doubt.

68.The Council has proposed a condition requiring a management plan to be submitted for future agreement to cover issues arising from vandalism. The appellant acknowledges that vandalism can be a problem sometimes and points to management arrangements with the Metropolitan Police. I think such a condition is justified and necessary in the interests of amenity, and such a condition shall therefore be imposed. I shall, however, extend the purpose of the plan to cover issues such as malfunctioning for reasons other than vandalism to ensure the public benefits of the hubs continue.

*The advertisement appeals.*

69.The five standard conditions set out in the Regulations are already imposed.

70.The appellant has suggested the imposition of several conditions. I share the view that all are necessary in the interests of amenity, albeit that they shall take a different form to those suggested.

71.I consider that additional conditions are necessary in the interests of amenity and safety respectively. I note that advertisements can be displayed either statically or dynamically. However, all the display screens are sited so that they can be clearly seen by passing motorists. In my experience, dynamic advertisements have the capacity to distract drivers thus putting public safety at risk. Conditions relating to the form and content of display shall therefore be imposed.

72.Other conditions are imposed to avoid possible noise pollution and nuisance caused by malfunctioning.

**Other matters**

73.All other matters raised in the representations have been considered but none outweighs the considerations that led me to my conclusions on all appeals.

74.For the above reasons I conclude that some of the appeals are allowed, subject to conditions and the other appeals should be dismissed.

*G Powys Jones*

INSPECTOR

### **Schedule of Conditions: s78 Appeals A, C, E & M**

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 completed in accordance with the following approved plans and documents: the unreferenced OS location and site plans; Drawings Ref A/489467/01 & 02 both Rev A; and the content of the Hub Unit Specification document.
3. Prior to the first operation of the development hereby permitted a management plan setting out the means of dealing with vandalism, graffiti and malfunctioning shall be submitted to the local planning authority for its approval. The development shall thereafter be operated and managed in accordance with the approved plan.

### **Schedule of Additional Conditions: Advertisement Appeals B, D, F & N.**

1. The intensity of the illumination of the display screen shall not exceed 2000 candelas per square metre during the day and 600 candelas per square metre during the hours of darkness.
2. The digital display shall not display any moving, or apparently moving, images (including animation, flashing, scrolling, three dimensional, intermittent or video elements).
3. The minimum display time for each advert shall be 10 seconds and the change in advertisement display shall be instantaneous.
4. No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.
5. No music or sound shall be emitted from the advertisements.
6. In the event of malfunction, the display screen shall be immediately switched off.