



Appeal Decision

Site visit made on 26 September 2023

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 11th December 2023

APP/C5690/W/22/3306386

Pavement o/s Lidl, 106 Sydenham Road, Lewisham, London SE26 5JX

- 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 for the London Borough of Lewisham.
 - The application Ref DC/22/126745, dated 21 March 2022, was refused by notice dated 30 May 2022.
 - The development proposed is the installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, and associated BT phone kiosk removal.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal is linked to appeals APP/C5690/W/22/3302435 and APP/C5690/H/22/3302436 which relate to a proposed BT Street Hub on the pavement outside (o/s) 32A Catford Hill, Catford, Lewisham, London SE6 4PX. These appeals are also before me to determine and whilst there are similarities between them and this appeal, I have dealt with this appeal separately.
3. The planning application was a combined application for planning permission and consent to display advertisements. Only the refusal of the planning permission is before me and I have considered this accordingly.
4. I noted on my visit that the existing kiosk has been removed and the pavement reinstated. I have therefore considered the proposal on the drawings provided.
5. The proposal would consist of replacing the existing BT Street Hub and removing two other BT kiosks located at the junctions of Kent House Road/Sydenham Road and Bromley Road/Daneswood Avenue. However, the Council advises that the kiosk on Bromley Road is not in the local vicinity and its removal would have no impact on the local streetscene. It also contends that the proposal does not meet an agreement that the BT Street Hub rollout programme would remove four existing phone kiosks for every Street Hub installed. The appellant advises that there is no agreement for four removals and as a compromise the removal of three is proposed. There is no evidence before me showing that an agreement exists for a higher number of kiosks to be removed or that they must be within the same locality. I have therefore considered the appeal on the basis of the details before me.
6. Since the appeal was lodged the Government published a revised National Planning Policy Framework (The Framework) on 5 September 2023. The

changes do not affect the consideration of this appeal. Any reference to the Framework in this decision refers to the 2023 publication.

Main Issue

7. The main issue is the effect of the proposed development on pedestrian and highway safety.

Reasons

8. The appeal site is located on the pavement in front of the Lidl store at 106 Sydenham Road. The road is a busy high street with a mix of commercial, retail and residential properties. The store has a rear car park and this has entry and exit lanes located to the side of the building. Sydenham Road is part of the public transport system of the area and it has bus stops on each side of the road close to the Lidl store.
9. In comparison to the kiosk that has been removed, the proposed 1.23 metres (m) long and 0.35m wide Street Hub would be positioned approximately 5.8m further along the road. It would sit close to the Lidl store's entrance and the entry to the car park. It would be positioned on the pavement next to the road, off set from the road edge by about 0.5m.
10. Drawing Ref 002A 'Proposed Site Plan', shows the width of the pavement at the proposal's location, between the edge of the road and the Lidl store's shopping trolley area, as being in the order of 6.9m. The drawing also indicates that there would be an estimated 5.2m unobstructed pavement width to the side of the proposal.
11. The Council, however, advises that only approximately 3.1m of the pavement next to the road, finished in paving slabs, is public highway and the remaining area, finished in paving setts, is not. The appellant provides no substantive evidence to demonstrate that this is not the case.
12. Reliance on the part of the pavement which is not public highway for pedestrian use is not possible as this could be closed off or used for other purposes. If this did occur, the pavement widths detailed by the appellant as available would be significantly reduced. This was demonstrated during my visit where the front pavement to the neighbouring property, Bishops Furniture Stores, has been partly fenced off. This has resulted in this area's pavement, which runs along the road, being reduced to approximately 3.2m. The appellant provides no evidence to show that the width of pavement at the proposal could not also be similarly reduced.
13. Consequently, in the absence of any contrary evidence and the potential risk to public safety, a cautious approach is justified, and, irrespective of the current pavement width, the proposal needs to be assessed on the front pavement width being approximately 3.1m.
14. On this basis, the inclusion of the proposed Street Hub would be significant. It would reduce the width of the unobstructed pavement to under 2m and adversely harm public safety by limiting movements along the pavement and preventing comfortable passage for all users. The proposal would not accord to the TfL Street Guidance Part E recommendations which states that units such as street hubs should be installed on pavements with a minimum width of 4.2m and provide a minimum unobstructed footway width of 2m.

15. Notwithstanding the above, the Council also advises that customers from Lidl who want to use the bus stop on the opposite side of the road tend to cross directly in front of the store. The appellant does not dispute this. The inclusion of the proposal would to a degree block the sight lines of drivers travelling west and pedestrians who are waiting to cross the road. I also noted that drivers travelling west who are turning into the store's car park entry would also have their sight lines of the pedestrian pavement reduced. It is therefore evident that the proposal would increase the risk of conflict between vehicles and pedestrians and compromise highway safety in these areas.
16. I understand that the appellant moved the proposal to its current location to be further away from existing street furniture and on a wider pavement. I also acknowledge that the proposal would also be smaller in area and volume compared to the removed kiosk. However, for the reasons set out above, the proposal would significantly obstruct the pavement. The reductions in the kiosk size do not change my view of the harm I have found.
17. The proposal would provide a number of benefits such as expansion of the electronic communications network, including next-generation mobile technology, free ultrafast Wi-Fi, phone calls, wayfinding, device charging, an emergency 999 call button, public messaging capabilities, and a platform of other interactive technologies, such as air quality monitoring. However, after careful consideration I find that it is essential that pedestrian pavements provide a safe and secure environment for users. As such the benefits identified are not sufficient to outweigh the significant harmful effect the proposal would have on public and highway safety.
18. Overall, the proposal would be contrary to DM Policy 35 of the Lewisham Local Development Framework Development Management Local Plan (2014), Policy T2 of the London Plan (2021), TfL Streetscape Guidance and Paragraph 130 of the Framework. These seek, amongst other matters, for public spaces and streets to be designed to be safe, inclusive and comfortable for pedestrian movement.

Other Matters

19. The appellant refers to appeal decision APP/Z4310/W/18/3205104 for a freestanding InLink at Church Street, Liverpool and planning permission given to a BT Street Hub in Manchester, LPA Ref 132472/FO/2021, in support of their case. However, the appeal decision, relates to a street where vehicle use is restricted, and it is pedestrianised for large parts of the day. The street is noted as being wide and little reference is made to it being restrictive for pedestrian use. In relation to the Manchester example, this relates to a pavement which is approximately 4.5m wide and would have an unobstructive pavement width greater than 2m. As such these examples are not directly comparable to the proposal before me and do not change my findings detailed above.
20. Reference is made by the appellant regarding a fall-back position of retaining the existing payphone infrastructure if the proposal is not acceptable. However, while I appreciate that the removal of existing kiosks would reduce some street clutter, no evidence has been provided that demonstrates that retaining the existing kiosks would be more harmful than the proposal. In my view the location of the existing kiosk which has been removed would in all likelihood, as it provided better driver sight lines, have a less harmful effect on public and

highway safety than the proposal. The fall-back therefore does not justify the harm I have identified.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

J Symmons

INSPECTOR