



Appeal Decisions

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

Appeal A Ref: APP/C5690/W/22/3302435

Pavement o/s 32A Catford Hill, Catford, Lewisham, London SE6 4PX

- 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 London Borough of Lewisham.
 - The application Ref DC/22/125888, dated 1 March 2022, was refused by notice dated 18 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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Appeal B Ref: APP/C5690/H/22/3302436

Pavement o/s 32A Catford Hill, Catford, Lewisham, London SE6 4PX

- 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 London Borough of Lewisham.
 - The application Ref DC/22/125889, dated 1 March 2022, was refused by notice dated 18 May 2022.
 - The advertisement proposed is 2no. digital LCD display screens, one on each side of the Street Hub unit.
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Decision

1. Appeal A is allowed and planning permission is granted for the proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, and associated BT phone kiosk removal in accordance with the terms of the application, Ref DC/22/125888, dated 1 March 2022, subject to the following 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 approved Drawing Refs Site Location Plan 001 A; Proposed Site Plan 002 A; Existing and Proposed Elevations 003 A and BT Street Hub Proposed Renders 2021 Mono#.
 - 3) The development hereby permitted shall be managed in accordance with the submitted BT Street Hub Anti-Social Behaviour Management Plan Version 2 (dated April 2021) and shall include the ongoing use of an algorithm to identify repeated anti-social call number use.

Any changes to the Anti-Social Behaviour Management Plan shall be reported and approved in writing by the local planning authority.

- 4) Prior to the development hereby permitted first being operated, the existing BT Public Kiosks on the pavement outside (o/s) 197B Stanstead Road, London SE23 1HU (E536165, N173298) and on the pavement o/s 84 London Road, London SE23 3PA (E535076, N173073) shall have been removed and the pavement reinstated to details approved in writing by the local planning authority.
2. Appeal B is allowed and express consent is granted for the proposed installation of 2no. digital LCD display screens, one on each side of the Street Hub unit. The consent is for ten years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:
 - 6) The development hereby permitted shall be carried out in accordance with the approved Drawing Refs Site Location Plan 001 A; Proposed Site Plan 002 A; Existing and Proposed Elevations 003 A and BT Street Hub Proposed Renders 2021 Mono#.
 - 7) The illuminated advertisement hereby 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.
 - 8) The intensity of the illuminated advertisements hereby permitted by this consent shall not exceed 280 candelas per square metre (cd/m²) between dusk and dawn and 600 cd/m² at other times and shall be displayed in complete accordance with the approved plans.
 - 9) 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.

Preliminary Matters

3. These appeals are linked to appeal APP/C5690/W/22/3306386 which relates to a proposed Street Hub on the pavement outside (o/s) Lidl, 106 Sydenham Road, Lewisham, London SE26 5JX. This appeal is also before me to determine and whilst there are similarities between it and these appeals, I have dealt with it separately.
4. There are two appeals on this site. Appeal A relates to the refusal of planning permission for the proposed Street Hub. Appeal B is in respect of the refusal of advertisement consent for the LCD signage. I have considered both on their individual merits. However, to avoid repetition I have dealt with the two schemes together, except where otherwise indicated.
5. With respect to Appeal B the Regulations regarding advertisements state that control may only be exercised in the interests of amenity and public safety. I have had regard to the policies of the development plan and supplementary guidance only in so far as they are a material consideration relevant to matters before me.
6. The application was for an advertising consent of ten years rather than the standard five years. The Council does not dispute this, and I see no reason to question it. I have considered the appeal on this basis.

7. The appeal site is in an area which is part of the Transport for London (TfL) Road Network land. TfL is the Highway Authority and provided consultee comments on the proposal.
8. 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 Issues

9. The main issue with respect to Appeal A is:
 - the effect the proposal would have on character and appearance of the area and function of the public realm.
10. The main issues with respect to Appeal B are:
 - the effect the proposal would have on visual amenity; and
 - its effect on public safety.

Reasons

Character and Appearance, function of the public realm and visual amenity

11. The appeal site is located on the footpath of Catford Hill Road. It consists of a free-standing open telephone kiosk with a rotating advertising board on its opposite side. The surrounding area is typically a mix of residential terraced properties and a three-storey terrace with ground floor commercial/retail use and residential above. The commercial/retail units have a mix of frontages and advertising signage/hoardings, and the pavement has a modest amount of street furniture including some cycle racks, bollards, traffic signs, streetlighting and nearby traffic signals.
12. The proposed Street Hub would replace the existing kiosk. It would be a similar width but taller to accommodate its 5G small cell antennas. It would include two approximately 0.95m wide by 1.67m high digital internally illuminated advertisement screens. The proposal includes the removal of the BT kiosks on the pavement at 197B Stanstead Road and 84 London Road.
13. In relation to Appeal A, while the proposed hub would be taller than the existing kiosk it would be a more modern and higher-quality design. With its slender profile and subtle colour it would not appear overly prominent or an incongruous change within the street scene. As the existing footpaths are relatively free of street furniture and the proposal replaces the existing kiosk, it would also not add to the clutter or create a cluttered appearance in the street.
14. Further to this, the proposal would complement the use and function of the area by supporting and expanding digital connectivity. It would support the expansion of the electronic communications network, including next-generation mobile technology (such as 5G) and provide a variety of features and services such as free ultrafast Wi-Fi, phone calls, wayfinding, device charging, an emergency 999 call button, and a platform of other interactive technologies, such as air quality monitoring. Even though some of these features and services would be available on mobile phones, the proposal would provide a mix that would, to varying degrees, benefit both people with and without such

devices. Little evidence to demonstrate that these features and services would be unnecessary or would not be used by people has been provided by the Council.

15. Accordingly, for Appeal A the proposal would not harm the character and appearance or function of the public realm. It would accord with DM Policy 35 of the Lewisham Local Development Framework Development Management Local Plan (2014) (Local Plan), Policies T2, T4 and D8 of the London Plan (2021) and the TfL Streetscape Guidance. These seek to, amongst other matters, encourage walking, cycling and public transport use by ensuring the public realm is well-designed and attractive. They also seek to encourage active travel, improve the balance of space given to people to dwell, walk, cycle, and travel on public transport and that street furniture complements the use and function of the space.
16. In relation to Appeal B, the existing kiosk includes an advertising roller banner to one side and there are a variety of other advertising signage/hoardings in the area. While the proposed advertising would be digital and on two sides, it would still display a series of static images which would not feature moving elements or dynamic displays. The proposed advertising would not be an uncharacteristic addition and it would be a modest change. Even being illuminated, it would not be an incongruous or overly dominant change and would not be visually intrusive in the mixed-use street setting.
17. The Appeal B proposal would therefore not unduly harm the visual amenity of the area. It would accord to Paragraph 136 of the Framework. While the policies referred to in Appeal A do not relate directly to advertisements and are not determinative, I have considered and found the proposal accords with DM Policy 35 of the Local Plan and Policy D8 of the London Plan (2021) which seek, amongst other matters, to ensure a well-designed and attractive public realm.

Public Safety

18. The Council and TfL are concerned that the proposal would restrict pedestrian movements along the footpath. However, the hub would be of a similar length to the existing kiosk and there would not be a reduction in the existing usable public footpath. Furthermore, the existing footpath is confirmed as being approximately 4.5m wide and an unobstructed footway width in the order of 2.49m would be retained by the proposal. These exceed the recommended 4.2m minimum footpath and 2m minimum unobstructed footway widths detailed in the Council's Officer Report and in the TfL Streetscape Guidance Part E. While I note that TfL advises that a minimum 3.3m available footway width should be provided based on its Pedestrian Comfort Level guidance, it does not explain why the widths detailed in the Streetscape Guidance would not be sufficient. On the basis that the proposal meets the Streetscape Guidance, I see little reason to consider the proposal would unacceptably block pedestrian movements and cause pedestrians to walk on the road.
19. TfL also raises concern that the proposal would distract drivers navigating the A205 signalised junction. It refers to the junction having twelve accidents over the last six years, five of which involved cyclists or pedestrians. However, TfL provides no details regarding the accidents recorded such as the type or cause. Nor does it provide evidence to indicate that the approximate 30m separation between the proposal and the junction would not be a sufficient distance for

drivers to safely navigate it or that accidents would be increased by the proposed change.

20. I observed during my visit that the signalised junction has a pedestrian crossing incorporated and cyclists would use the paved area where the cycle racks are located. It is also evident that the signalised junction consists of single-lane carriageways that only permit straight-on manoeuvring. The area has streetlighting and is within a red route which restricts parking.
21. While I noted the road to be busy, it was also evident that the signalised junction is not highly complex, and it would be well-lit at night. The proposal would not be a significant change and little evidence is provided to justify that the proposed static images would be more distracting to drivers than other existing adverts in the area. With the proposal being off set to the side of the road and not obscuring the cycle racks, the line of sight of drivers to the pavement and signalised junction/pedestrian crossing would still be maintained. Having carefully considered the concerns of TfL and the need for drivers to take care navigating the junction, I do not consider the positioning of the proposed advert displays would create an unacceptable obstruction or distraction.
22. Notwithstanding the above, the Council considers the lighting level to be excessive in terms of light pollution and glare. TfL advises that, based on the Institute of Lighting Professionals (ILP) guidance, the proposed levels of illumination of the adverts should be reduced to 280 cd/m² at night (dusk to dawn) and 600 cd/m² at all other times. The Council do not advise differently, and the appellant provides no substantive evidence to justify a higher level of illumination. As the requested illumination reduction meets the recommendations set out in the guidance, I see no reason to question it and consider this could be controlled by condition.
23. Consequently, I do not consider the proposal would compromise public safety. It would be in accordance with Paragraph 136 of the Framework. While the policies of the development plan and supplementary guidance are not determinative, I have considered and found the proposal accords with Policies 14 and 15 of the Lewisham Local Development Framework Core Strategy (2011), DM Policies 19, 27, 30 and 35 of the Local Plan and Policies GG1, D8, T2 and T4 of the London Plan (2021). These policies seek, amongst other matters, for development to promote and prioritise public safety and provide a safer environment.

Other Matters

24. Further to the proposal not adversely affecting the cluttered appearance of the street, it would also remove two existing kiosks within the Borough. While I appreciate the main parties do not agree on the number of existing kiosks that are expected to be replaced by the Street Hub rollout programme, the removals would in all likelihood assist in reducing general street clutter elsewhere in the Borough. In relation to the number of kiosks that the Council and TfL consider should be removed, limited evidence is provided to support their assertions that there is an agreement for a higher number.
25. The proposal would be in the vicinity of St Dunstan's College which is a locally listed building. Little information on the listing is provided and the Council do not raise any specific concerns with respect to it. As the proposal would be

distant and screened by the existing terraced properties, it would not adversely affect the character and appearance of the area or harm the setting of the building. The proposal would therefore preserve the locally listed building.

Conditions

26. The Council and TfL have suggested a number of conditions. The conditions that I have imposed are broadly reflective of those suggested although I have amended some of the wording in the interests of precision and clarity.
27. For Appeal A, I have included the standard time and approved plans conditions for certainty. I have, to ensure pedestrian safety against crime, included a condition requiring the Street Hub to be managed in accordance with the submitted BT Street Hub Anti-Social Behaviour Management Plan. I have only included Council approval being required for any changes to the plan as it can consult the Metropolitan Police Design Out Team if required. I have not included the Council's requested condition which would require the charging facility to be switched off as this is an important service that the proposal incorporates. The Council provides no evidence that pedestrian safety would be adversely affected by its inclusion. In any event, if it is subsequently identified as a safety risk then it can be addressed through the Anti-Social Behaviour Management Plan.
28. For certainty, I have also included a new condition for the removal of the BT kiosks from the pavement at 197B Stanstead Road and 84 London Road prior to the use of the Street Hub as this is not referenced elsewhere. As part of this I have included, for public safety in relation to risk of trip hazards, that the pavement reinstatement after the removal of the kiosks is approved in writing with the Council. I consider the Council can consult TfL regarding the reinstatement if necessary. Although this condition has not been seen by the appellant, the removals are clearly included in the proposal and proper reinstatement is required. As such I consider no party would be prejudiced by its inclusion.
29. With respect to Appeal B, I have referenced the 5 standard conditions set out in the Regulations. I have included the 10-year consent period as the Council has not provided any reason why this should be reduced to 5 years. For certainty, a condition is required specifying the plans that are approved. To ensure public safety is not compromised it is necessary to impose conditions controlling the level of illumination and restricting visual effects which could cause a unacceptable distraction to drivers. As part of this I have also added a condition to restrict the time between successive displayed images and any sequential change between advertisements. This condition was detailed in the TfL suggested conditions and has been seen by both parties and is in the interest of public safety. As such I consider no party would be prejudiced by its inclusion.

Conclusion

30. For the reasons given above I conclude that Appeal A and Appeal B are allowed.

J Symmons

INSPECTOR