



Appeal Decisions

Site visit made on 5 December 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2023

Appeal A Ref: APP/A5270/W/23/3320306

Pavement opposite 433-435 Uxbridge Road, Ealing W5 3NT

- 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 of JCDecaux UK against the decision of the Council of the London Borough of Ealing.
 - The application Ref 230234FUL, dated 19 January 2023, was refused by notice dated 15 March 2023.
 - The development proposed is installation of freestanding Communication Hub with integrated touch screen, and advertising LCD panel.
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Appeal B Ref: APP/A5270/H/23/3320307

Pavement opposite 433-435 Uxbridge Road, Ealing W5 3NT

- 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 of JCDecaux UK against the decision of the Council of the London Borough of Ealing.
 - The application Ref 230235ADV, dated 19 January 2023, was refused by notice dated 15 March 2023.
 - The advertisement proposed is the installation of freestanding internally illuminated single sided advertising LCD panel.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The descriptions of the proposals in the banner heading above for both Appeal A and B is taken from the appeal form and the Council's refusal notice. These descriptions are more succinct than those specified on the application forms, and they also remove superfluous information. I do not consider that any party has been prejudiced by my approach.
4. The proposal for Appeal B would be an integral part of the proposal for Appeal A. As such, to avoid repetition I have provided one reasoning section, detailing my findings for both appeals. Notwithstanding this, each proposal and appeal has been considered individually, and on its own merits.

5. In respect of Appeal A, there is a duty set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require special regard to be had to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. In advertisement appeals (Appeal B) this is only relevant in so far as it relates to amenity.
6. In relation to Appeal B, the Council's reason for refusal refers to development plan policies and the National Planning Policy Framework (the Framework). However, The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) require that decisions are made only in the interests of amenity and public safety, as appropriate to each case. Therefore, although I have taken the Framework and development plan policies into account, they have not been decisive considerations in my determination of that appeal.

Main Issues

7. The main issue with respect to Appeal A is the effect of the proposed development on the character and appearance of the area.
8. In respect of Appeal B, the Council has raised no concerns regarding public safety and from the evidence before me I see no reason to disagree. Consequently, the main issue with respect to Appeal B is the effect of the proposed advertisement on the amenity of the area.

Reasons

9. The appeal site is located on part of a wide pavement to one side of Uxbridge Road. There is already considerable street furniture in this immediate area, including a bus top, featuring a display panel, communication/display hub, cycle stands, litter bin, bench, bollards, and street trees. The properties in this immediate area are mostly tall, located at the back edge of the pavement, and mainly have commercial uses on their ground floor with glazed frontages and signage, some of which is illuminated. The generous setback of buildings and the wide pavement provides this side of the road a spacious and mainly open character between the carriageway and the street facing buildings. On the opposite side of the road, there is a similar communication hub, with a display panel on one side and a public phone on the opposite side.
10. The proposal would be tall, said to measure some 2.6 metres in height, and is sited very close to the carriageway edge. Its scale, prominent siting, and bulky appearance would harmfully contrast with the mainly open and spacious character of this wide pavement area and street trees, introducing an incongruous feature into the streetscene. In addition, the communication hub would significantly add to the amount of street furniture in the immediate pavement area, making this busy area dominated with varying unconnected street furniture, further harming the character and appearance of this part of Uxbridge Road.
11. The proposal would be sited very close to an existing communication/display hub, which features a display panel on both of its sides. In addition, beyond the existing display hub is a further display panel attached to a bus shelter, both display panels occupy positions very near to the carriageway edge on the same side of the road. In view of this and the communications hub on the opposite

side of the road, there is already a concentration of similar advertisement display panels very close together.

12. The large screen proposed to be on one side of the hub would be used to display commercial and community messaging and advertisements. This additional advertisement panel, particularly given its prominent siting, together with its large size would be dominant in the streetscene. It would harmfully contrast against the open and spacious character on this part of the road, and unacceptably add to the concentration of advertising along the carriageway edge, and harm the amenity of the area. Although the brightness of the screen could be controlled by condition, the overall visual effect of the proposed hub would be particularly noticeable and harmful in the hours of darkness.
13. In regard to Appeal A only, Ealing Common Underground Station is located to one side of the appeal site, it is a grade 2 listed building. In-between the listed building and the appeal site, are a number of different pieces of street furniture, including the bus stop with its display panel and another communication hub and street trees. As such, views of the appeal site and the listed building in the same context would be very limited. For these reasons, and the distance between the listed building and the appeal site, the proposal would not be harmful to its setting, and have a neutral effect upon the heritage asset.
14. To conclude, in respect of Appeal A, the proposal would harm the character and appearance of the area. In relation to Appeal B, the above reasoning identifies that the proposed advertisement would have an unacceptable and harmful effect on amenity. As a result, both Appeal A and Appeal B would conflict with Policies 7.4 and 7B of Ealing's Development Management, Development Plan Document, adopted December 2013 (DPD) and Policies D3 and D8 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (the LP), that amongst other things require development to be high quality, ensure the public realm is well-designed, legible, have a positive visual impact, deliver spaces that positively respond to local distinctiveness and require unnecessary street furniture is refused. In addition, the proposals would conflict with paragraphs 106 and 130 of the National Planning Policy Framework, that amongst other things seek development to add to the overall quality of an area, be sympathetic to local character and provide attractive, well-designed walking and cycling routes.
15. The Council referred to both appeal proposals being in conflict with Policy 7A of the DPD, and Policy D4 of the LP. Policy 7A is concerned with the effects of emissions from development and Policy D4 is focussed on design review and analysis. I did not find either of these policies to be directly relevant to either of the appeals.

Other Matters

16. The proposal would provide some public benefits in the form of free Wi-Fi, free phone calls to landlines, wayfinding, device charging, rapid connection to emergency services and public messaging capabilities. However, the limited scale of the proposal, and the fact that some of these services are already provided on the nearby communication hub means the benefits are very limited. Moreover, I am not persuaded that such services could not be provided in a less obtrusive way or location.

17. The proposed hub would also incorporate a defibrillator. Whilst these facilities are important for public health, there is no evidence of why a defibrillator could not be located elsewhere in the locality, accordingly this aspect only attracts limited weight.
18. The appellant has referred to the sustainability aspects of the proposal, particularly the attached solar panels for its energy use and the minimal ground disturbance works required for its installation. Be that as it may, these points carry limited weight in my decision given the small scale of the proposal.
19. I note the comments that advertisements encourage economic growth, which would be a benefit to the proposal, but limited evidence has been submitted to quantify such a benefit from this particular proposal. In any event such a benefit could be accrued by advertisements located nearby on the existing communication/display units. This argument does not alter the conclusions I have reached.
20. I also note the conditions suggested by the appellant, however, these could not be imposed to address the identified harm above regarding the effect of the proposal upon the character and appearance of the area, from the siting, scale and appearance of the proposal.

Conclusion

21. I acknowledge that Section 10 of the Framework supports the provision of high quality electronic communication infrastructure. However, I must balance this against the effect of the proposal upon the character and appearance of the area, which I have found to be harmful. In combination, I find the benefits of the proposal do not outweigh the harm I have identified. For the reasons given above, therefore, and having considered local plan policies and all other material considerations, I conclude that Appeal A and Appeal B should be dismissed.

A Hunter

INSPECTOR