



Appeal Decision

Site visit made on 8 February 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2024

Appeal A Ref: APP/B5480/W/23/3325467

Pavement outside Mercury Shopping Centre, Mercury Gardens, Romford, RM1 3EE

- 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 Ltd, against the decision of Havering London Borough Council.
- The application Ref P0149.23, dated 27 January 2023, was refused by notice dated 15 May 2023.
- The development proposed is installation of an open access communication hub unit with a defibrillator.

Appeal B Ref: APP/B5480/H/23/3325468

Pavement outside Mercury Shopping Centre, Mercury Gardens, Romford, RM1 3EE

- 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 Ltd, against the decision of Havering London Borough Council.
 - The application Ref A0003.23, dated 27 January 2023, was refused by notice dated 15 May 2023.
 - The development proposed is 2 x internally illuminated LCD advertisement displays.
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Decision

Appeal A Reference APP/B5480/W/23/3325467

1. The appeal is allowed and planning permission is granted for installation of an open access communication hub unit with a defibrillator at pavement outside Mercury Shopping Centre, Mercury Gardens, Romford, RM1 3EE, in accordance with the terms of the application, Ref P0149.23, dated 27 January 2023, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Appeal B Reference: APP/B5480/H/23/3325468

2. The appeal is allowed and express consent is granted for 2 x internally illuminated LCD advertisement displays at pavement outside Mercury Shopping Centre, Mercury Gardens, Romford, RM1 3EE, in accordance with the terms of the application, Ref A0003.23, dated 27 January 2023, and the plans submitted with it, subject to the conditions set out in the schedule at the end of this decision.

Preliminary matters

3. As set out above, there are two appeals on this site. Appeal A relates to the physical structure and Appeal B to the advertisement display that it would carry. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two developments together, except where otherwise indicated.
4. The application form gives the site address as "Pavement opposite 45 Market Place, Romford, RM1 3AB", as did the appeal form. However, the council describes the location as "Pavement outside Mercury Shopping Centre, Mercury Gardens". The latter appears to be the more accurate; indeed the post code RM1 3AB, as shown on Google Maps, is an area some distance away. I asked the appellant about this and it was agreed that the address should be changed.
5. The application form, used for both the application for planning permission and for the consent to display advertisement, described the development as "install an open access Communication Hub". In respect of the hub, the council changed this to "installation of an open access communication hub unit with a defibrillator", as did the appeal form. I have adopted this description in the heading above as I consider it more fully describes the proposed development.
6. In respect of the advertisement, the council described the proposal as "Advertisement Consent for 2 x internally illuminated LCD advertisement displays". On the advertisement appeal form the description given was "Erection of digital LCD advert screen on proposed communication Hub". I prefer the council's description as more accurately describing the advertisement, and have adopted it in the heading above.

Description of the proposed unit and display

7. The proposed communications hub, subject of appeal A, would have a height of approximately 2.63m by 1.3m wide, with a side profile measuring 0.3m. The communication side of the unit includes a projecting canopy made of solar panels that power the down light within the unit. The Hub is activated via a 32 inch touchscreen above a defibrillator cabinet, which is a standard feature on all the appellant's units. This side of the Hub also includes a charging point, emergency service line and local news channels. It incorporates free telephone calls to landlines and a range of other connectivity functions including Wi-Fi access. A touchpad is positioned at 1m from the ground to provide easy access for wheelchair users and the screen is designed with high contrast colours to assist the partially sighted. The integral defibrillator is said by the appellant to be unique to the Hub unit.
8. The advertisement display, subject of Appeal B, would be elevated by 530mm above the pavement. The advertisement face is integral to the Hub Unit design and comprises an ultra HD LCD screen for outdoor use making it visible in direct sunlight and able to automatically adjust to ambient changes. The screen can show both static and dynamic content which changes every 10 seconds. The images shown on the screen would change in a repeated sequence. In addition to commercial messages, the screen would be used to display local community messaging via the council's communication channel or can be used as a platform to promote local safety campaigns.

Main Issues

9. In respect of the advertisement appeal, my consideration of this case is confined to the issues of amenity and public safety. The main issues in both these cases are: i) the effect of the proposed hub and display on the character and appearance of the area; and ii) whether the proposals would lead to increased risk to pedestrian and highway safety through the siting and design of the communications hub close to the back-edge of the highway and within proximity to a busy bus interchange outside the shopping centre.

Reasons

The site

10. The proposed Hub would be located on the footway to the highway of Mercury Gardens, outside the Mercury Shopping Centre, and more particularly, outside of the ASDA supermarket façade. This point is just beyond the exit to the roundabout junction of Mercury Gardens with Main Road and St Edwards Way. The site is at the point where the carriageway widens to provide for a series of bus stops that start some 3m to 4m beyond the site. About 18m from the site, where the footway widens, there is a subway that providing pedestrian facilities to cross Mercury Gardens. The area generally is given over to shopping, offices and other town centre uses.

Planning policies

11. Policy 25 of Havering Local Plan 2016-2031 seeks to promote and enhance connectivity by supporting physical infrastructure, whilst Policy 26 promotes high quality design. The Mayor's London Plan 2021 includes Policy D4 – Good Design, and an objective to support the effective use of the public realm to accommodate well designed and suitably located mobile digital infrastructure.
12. These policies and the objective mentioned are consistent with the National Planning Policy Framework (the Framework). Paragraphs 114 states "*Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution)*".
13. In respect of outdoor advertising, Framework paragraph 136 of states that: "*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.*"

The effect of the proposed hub and display on the character and appearance of the area

14. The site, as already mentioned in paragraph 10 above is on the public footway to Mercury Gardens, outside one of the large indoor shopping areas of the town centre. Mercury Gardens is a dual carriageway road, part of the town centre

ring road. The facades of both the Mercury Centre and the ASDA supermarket are modern and somewhat monumental in scale and appearance. The pavement in front of ASDA is wide and rather featureless, although beyond, looking towards the entrance to the Mercury Centre, there is a display panel close to the carriageway and a substantial low structure that affords entrance to a pedestrian subway.

15. The hub is a well-designed piece of street furniture. It basically has clean well-defined lines, with each side devoted to its particular purpose. The large 86" advertising screen, set within a simple framework in a dark colour would face along the street on what is nominated as the rear façade. The design includes 13.5mm thick antivandal toughened safety laminated glass on all glazed surfaces and a nanotech surface treatment to enable easy removal of stickers and/or sprayed paint. The Front façade is logically laid out, topped with a restrained but clear Defibrillator sign, below which is a 32" touch screen with phone, wayfinding and access to council services. These elements have a protected canopy, which incorporates a solar panel.
16. I conclude that the communication hub of Appeal A is an item of street furniture that is suitable for locations in town centres where there is not existing excess clutter or would be as a result of allowing it, where it would not impede pedestrian movement, and where it would not be at odds with the essential character of the area and its existing built form. The appeal site is one such situation. In respect of appeal B, the advertisement display would not be harmful on the basis of its effect on the amenity of the area.

Whether the proposals would lead to increased risk to pedestrian and highway safety.

17. The concern under this issue is the siting and design of the communications hub close to the back-edge of the highway and within proximity to a busy bus interchange outside the shopping centre. I have already indicated that the proposed hub would not, in this location, impede pedestrian movement: the footway is wide and being alongside a dual carriageway close to a roundabout, it is not an attractive or convenient location where pedestrians are likely to try to cross the carriageway, especially as there is an underpass crossing point nearby. It would rarely, if ever, be a place where a car would stop to drop off a passenger. Nor is it in the immediate area where considerable pedestrian activity does take place, between the bus stops and the entrance to the Mercury Centre, within which is the entrance to the ASDA store.
18. In terms of risk to traffic, other than buses using the extensive bus stop bays, vehicles are kept well away from the footpath because of the bus stops. At this distance from the kerb, I do not think that drivers are likely to be distracted by the advertisement or any pedestrian activity around the hub. There are many potential distractions in busy urban environments that largely are not the source of driver error, and the hub and its advertisement would be unlikely to be any more threatening to highway safety than is the normal street environment.
19. However, bus drivers would be in near proximity to the hub and its advertisement, but they are specially trained and licensed and are used to paying especial attention when entering or leaving bus stop bays.

20. For these reasons I consider that there would be no increased risk to pedestrian and highway safety arising from the installation of the hub and its advertisement panel. In reaching this conclusion I have noted the comments of the Metropolitan Police Traffic Management Unit and what I am told of observations made by Transport for London in connection with similar proposals.

Conclusions

21. For the reasons that I have set out above I consider that the communications hub and the advertisement would not cause an excess of clutter. It would not impede pedestrian movement, or be at odds with the essential character of the area and its existing built form. Nor would the hub and advertisement display be harmful to matters of amenity and public safety. Therefore I will allow both appeals.

Conditions

22. In respect of appeal A, The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance. I consider that the conditions should be imposed for the following reasons: condition 2 is to ensure community safety and in the interests of general amenity; and condition 3 is to ensure that the site is returned to a satisfactory condition at the end of life of the apparatus.
23. In respect of Appeal B, the council has also suggested conditions; I will impose these for the following reasons: conditions 1 to 5 are required and specified by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the advertisement; condition 6 is to meet the recommendations of the Institute of Public Lighting Engineers Technical Report No. 5 (Third Edition) in the interests of living conditions of neighbours and general amenity; conditions 7 is in the interests of sustainability and highway safety and general amenity; conditions 8 to 13 are in the interests of highway safety and general amenity.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

Appeal A Ref: APP/B5480/W/23/3325467

1. The development to which this permission relates must be commenced not later than three years from the date of this permission.
2. This Communication Hub must be managed in accordance with the agreed Unit Management Plan (v2 September 2022) and must include the ongoing use of a system to identify repeated anti-social number use, with a review after the first three months of installation between police and JC Decaux to assess any issues arising. Any change to the Unit Management Plan should be approved by the local planning authority and the Metropolitan Police Designing Out Crime Team. The Unit Management Plan must remain for the lifetime of the device.
3. The equipment hereby permitted shall be removed from the site when it becomes redundant and the surrounding land made good.

Appeal B Ref: APP/B5480/H/23/3325468

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
2. No advertisement shall be sited or displayed so as to:-
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.
5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.
6. The degree of illumination during the day should not exceed 2500 Cd/m² and 300 Cd/m² in the hours of darkness.

7. The screen shall be designed so that in the event of breakdown it shall automatically power off to prevent flashing error messages being displayed and shall be so maintained.
8. The main facing advertisement panel (non-kiosk side) shall not display commercial or community messages and shall be powered off between 11:59PM and 06:00AM.
9. No special visual effects of any kind are permitted during the time that any message is displayed. The displayed image must not include animated, flashing, scrolling, intermittent or video elements.
10. No visual effects of any kind to be permitted to accompany the transition between any two successive messages. The replacement image must not incorporate any fading, swiping or other animated transitional method.
11. The minimum time between successive displayed images shall be 10 seconds.
12. The sequencing of messages relating to the same product is prohibited.
13. No advertisement to resemble traffic signals.

End of conditions