



Appeal Decision

Site visit made on 21 May 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 June 2024

Appeal A Ref: APP/E5900/W/23/3330509

Pavement opposite 446 Bethnal Green Road, E2 0EA

- 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 JCDecaux UK Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/23/01200 dated 21 June 2023, was refused by notice dated 23 August 2023.
 - The development proposed is the installation of multi-functional communication hub
 - including advertisement display.
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Appeal B Ref: APP/E5900/H/23/3330510

Pavement opposite 446 Bethnal Green Road, E2 0EA

- 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 JC Decaux UK Ltd against the decision of the Council of the London Borough of Tower Hamlets.
The application Ref PA/23/01201 dated 21 June 2023, was refused by notice dated 23 August 2023.
 - The advertisement proposed is the display of 86 inch lcd screen capable of showing illuminated static displays in sequence.
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Decisions

1. Appeal A is allowed and planning permission is granted for the installation of multi-functional communication hub including advertisement display at Pavement opposite 446 Bethnal Green Road, E2 0EA in accordance with the terms of the application, Ref PA/23/01200 dated 21 June 2023, subject to the conditions set out in Schedule 1 to this decision.
2. Appeal B is allowed and express consent is granted for the display of 86 inch lcd screen capable of showing illuminated static displays in sequence. The consent is for five years from the date of this decision and is subject to the five Standard Conditions set out in Schedule 2 of the Regulations and the additional conditions set out in Schedule 2 to this decision.

Preliminary Matters

3. I have considered Appeal A and Appeal B on their own individual merits. However, as the communication hub and advertisement are linked, I have dealt with them together to avoid duplication. For both appeals, I have taken the name of the appellant and the address from the appeal forms.

4. In respect of Appeal B, Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the National Planning Policy Framework (the Framework) make it clear that advertisements are subject to control only in the interests of amenity and public safety. While not decisive, I have taken relevant policies into account as a material consideration.
5. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. Apart from paragraph numbering those parts of the Framework most relevant to this appeal have not been amended. As a result, it has not been necessary to seek comments on the revised Framework. No party's interests have been prejudiced by my taking this approach.
6. I have taken the description of development from the Council's decision notices, which are more accurate than those provided on the application forms.

Main Issues

7. For Appeal A, the main issues are the effect of the proposal on: the character and appearance of the area; and highway safety.
8. For Appeal B, the main issues are the effect of the proposal on: visual amenity; and public safety.

Reasons

Character and Appearance; Visual Amenity

9. The site is a wide area of footpath on Bethnal Green Road close to the junction with Wilmot Street in a primary shopping area. The surrounding pavement houses multiple elements of street furniture, such as cycle stands, bollards and traffic lights along with a tree at the footpath edge, and a nearby lamppost, bin and bus stop set further back within the pavement in a largely linear fashion. The immediate area has a predominantly commercial feel, particularly at street level, with a range of commercial units and variety of signage and facades lining the street.
10. The proposals seek to erect a communications hub with advertisement display at the site. It would sit back from both the kerb and the adjacent buildings. Although this would result in a further piece of street furniture on the pavement, its positioning would largely continue the linear placement of other such elements set within the footpath, thereby assimilating with the pattern of this street furniture. While the Council also raises concerns relating to cages placed within the street, these do not appear to be permanent and, in any event, were not present at the time of my visit.
11. Due to the wide nature of the pavement and the separation distance between the proposal and the other structures within, and at the edge of, the footpath, the proposal would not lead to the pavement being unduly cluttered or visually overwhelmed by a proliferation of street structures. Although wider and taller than some of the other nearby elements of street furniture, its set back from the adjacent buildings would ensure that clear views along Bethnal Green Road would remain in both directions on this side, retaining the overall legibility of the street even when the tree on the opposite side of the hub would be in leafing season.
12. The wide range of signage in the immediate vicinity would also ensure that the proposed advertisement display would not be visually disruptive. It would be experienced among the varied signage along the shop front facades of adjacent

buildings and at the nearby bus stop, within an area of a predominantly commercial nature. In this context, even noting the internal illumination, the advertisement display would not appear out of place, with conditions ensuring that the images are static and that the frequency and nature of their change is adequately controlled so as to not be unduly visually jarring.

13. No. 423 on the opposite side of the street to the appeal site and No. 456 further east on Bethnal Green Road are locally listed buildings. The Framework is clear that the effect of an application on the significance of a non-designated heritage asset must be taken into account. The Council has not alleged any specific harm to these buildings or their setting. Based on my observations, I have no reason to disagree. The settings of these buildings comprise a commercial street with varied facades and signs. This context, coupled with the distance between the site and these buildings, ensures the proposal would not detract from the setting of the buildings or the ability to appreciate and understand them. Overall, it would not have a harmful effect on the significance of the locally listed buildings at Nos. 423 and 456 Bethnal Green Road.
14. With regard to Appeal A, for the reasons given the hub would not cause harm to the character and appearance of the area. As such, there would be no conflict with Policies S.DH1 and D.DH2 of the Tower Hamlets Local Plan 2031 (the THLP) and Policy D8 of the London Plan 2021 insofar as they seek to ensure high quality design that respects and positively responds to its context and the public realm. While reference is also made to Policy D.DH8 of the THLP, this relates to amenity such as outlook, privacy, light and pollution which does not go to the main issues of this case.
15. With regard to Appeal B, for the reasons given, the advertisement would not cause harm to the visual amenity of the area. I have taken into account the policies of the development plan insofar as they are material, and the scheme would comply with those policies referred to above in this respect in addition to Policy D.DH10 of the THLP insofar as it seeks to ensure well designed signage that complements the character and appearance of the area.

Highway Safety; Public Safety

16. The proposal would be located in a busy, commercial area, in a prominent position on a pavement that is likely to be well used by pedestrians, given the presence of surrounding retail uses. Furthermore, the immediately surrounding road network is likely to be well used by drivers, given its location as a thoroughfare through a part of inner London.
17. The proposal would be a solid, opaque structure that would be readily visible to drivers using Bethnal Green Road and travelling to and from the junction with Wilmot Street. However, it would be well set back from both of these roads, located within the pavement, and the alignment of both roads are straight with good visibility. As such, the hub would not be in a position that would be likely to obscure driver views of either the immediate road network or pavement such that it could lead to an increase in collision risk with other vehicles or pedestrians.
18. Despite its limited depth, the proposal's footprint would introduce a somewhat wide element to the footpath, narrowing the available pavement width in the immediate vicinity on the approach to, and when travelling from, Wilmot Road. It would also be sited among other street furniture elements on the pavement. However, I observed this section of the pavement to be wide, and the proposal would be set back from

the footpath edge, other elements of street furniture, and the adjacent buildings on the street. At both sides of the hub, it would retain ample, useable pavement for pedestrians, including space to ensure that its use would not interfere with the use of the nearby cycle stands. As such, even noting the busy, commercial nature of the street, due to the precise nature of the footpath in this location and the positioning of the proposal within it, the hub would not represent an obstacle that would unduly restrict pedestrian flow or safety in the immediate vicinity.

19. The Council refers to the TfL Streetscape Guidance that suggests the frontage zone of commercial units should be kept free from street furniture in the interests particularly of footpath users with prams, wheelchairs and walking sticks. However, even acknowledging the disagreement between the main parties regarding the precise distance of the hub from the commercial units, based on my observations on site of the composition of this part of the street and taking account of the observed and likely pedestrian volumes I find that sufficient space would remain to serve the needs of all footpath users. There is nothing substantive before me or observed on site to suggest that the proposal would fail to provide an inclusive and accessible walking environment.
20. With regard to the advertisement, the main parties agree that the sequencing of content, luminance levels and visual effects could be controlled by way of planning condition. Based on my observations I have no reason to disagree. With such controls in place, I am satisfied that the advertisement display would not cause an undue distraction to nearby drivers or pedestrians to a level that would create public safety risks.
21. With regard to Appeal A, for the reasons given the hub would not cause harm to highway safety. As such, there would be no conflict with Policy S.TR1 of the THLP and Policies T1, T2, T3 and T4 of the London Plan 2021 insofar as they seek to ensure development does not adversely impact the access and safety of the highway network, ensures a balance of space given to enable walking and does not increase road danger.
22. With regard to Appeal B, for the reasons given, the advertisement would not cause harm to public safety. I have taken into account the policies of the development plan insofar as they are material, and the scheme would comply with those policies referred to above in this respect in addition to Policy D.DH10 which seeks to ensure well integrated signage that does not adversely affect public and highway safety or impede pedestrian access.

Other Matters

23. Reference has been made to other applications and appeals relating to development at and in the vicinity of the site for communications hub, advertisement displays and call boxes. However, little substantive information on these schemes or their comparability to the proposal have been provided. In any event, each application is decided on its own site specific merit and reference to development elsewhere carries little weight, which would not outweigh my findings above.

Conditions

24. I have had regard to the suggested conditions, which I have considered against the tests in the Framework and the advice in the Planning Practice Guidance. I am satisfied that, as part of the appeal process, the main parties have had the opportunity to review these. In the interests of certainty, it is necessary to impose

conditions requiring the development to be implemented within 3 years and to be carried out in accordance with the approved plans. To protect the surrounding character, I have imposed a condition that materials shall be in accordance with the provided product statement. I have also attached a condition relating to the management of the hub, which is necessary for public safety.

25. The Council has suggested further conditions relating to: construction activities, to include adherence to a Code of Construction Practice and limiting construction hours and noise and vibration levels; and noise and vibration levels during the lifetime of the development in the interests of the amenity and wellbeing of surrounding residents. However, given the nature of the proposal and level of construction activities likely to occur, I do not consider these conditions to be necessary. The appellant's documents refer to an installation process of between 2 and 3 days, while there is nothing substantive to suggest that the proposal would, during its lifetime, lead to undue noise or vibration, with all units being soundproofed with isolated internal components. Combined with the largely urban nature of the surrounds, I do not find the proposal would have significant negative effects in these regards.
26. With regard to the advertisement consent, the conditions set out in the schedule are in addition to the five standard conditions set out at Schedule 2 of the Regulations. These standard conditions are not repeated in the schedules. I have not attached a condition relating to plans in this case as I am granting express consent. Conditions relating to the maximum luminance, the need for images to be static and not resembling traffic signs, a lack of sequencing or interactive elements, and the minimum display time and instantaneous change of images are necessary in the interests of amenity and public safety. However, there is no clear justification for the minimum display time being different to the 10 seconds, or the level of illumination being less than the 600 cd/sqm for hours of darkness, as identified by the appellant. While the Council refers to an Institute of Lighting Professionals publication, no such document has been provided.

Conclusion

27. For the reasons given above and having had regard to all other matters raised, Appeal A and Appeal B are allowed subject to the conditions set out in Schedules 1 and 2 of this decision, respectively.

C Rafferty

INSPECTOR

SCHEDULE 1

SCHEDULE OF CONDITIONS APPEAL A

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 carried out in accordance with the following documents submitted with the application: Site Plan and Images, Document A02266; Communication Hub Proposal Product Details and Benefits; Hub Unit Details; and Pavement Reinstatement;
3. The external surfaces of the development shall be constructed using the materials, finishes, and colours as described in the Hub Unit Details;
4. The development shall be managed in accordance with the Communication Hub Unit Management Plan v1 October 2020, for the lifetime of the development.

END OF SCHEDULE

SCHEDULE 2

SCHEDULE OF CONDITIONS APPEAL B

The following conditions are attached to this consent, in addition to the five standard conditions set out in the Regulations, which are not repeated in this schedule.

1. The intensity of the illuminance of the advertisement shall be no greater than 600 candela/square metre between dusk and dawn;
2. The display shall not change more than once every 10 seconds;
3. There shall be no message sequencing for the same product and the advertisements shall not include features/equipment which would allow interactive messages/advertisements to be displayed;
4. There shall be no special effects (including noise, smell, smoke, moving images, apparently moving images, animation, exposed cold cathode tubing, flashing, scrolling, three dimensional, intermittent or video elements) of any kind, or any images that resemble road signs or traffic signals during the time that any message is displayed;
5. The interval between successive displays shall be instantaneous (0.1 seconds or less), the complete screen shall change and there shall be no visual effects (including fading, swiping or other animated transition methods) between successive displays and the display shall include a mechanism to freeze the image in the event of a malfunction.

END OF SCHEDULE