
Appeal Decisions

Site visit made on 17 July 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2024

Appeal A: Appeal Ref: APP/H5390/W/24/3341559

Pavement Outside 242 Shepherds Bush Road, Hammersmith, London W6 7NL

- 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 Stevens (J C Decaux UK Limited) against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2021/03497/FUL.
 - The development proposed is the replacement and upgrade of an existing illuminated and advertised enclosed telephone kiosk with a multifunctional communication hub including advertisement display.
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Appeal B: Appeal Ref: APP/H5390/Z/24/3341560

Pavement Outside 242 Shepherds Bush Road, Hammersmith, London W6 7NL

- 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 Stevens (J C Decaux UK Limited) against the decision of the Council of the London Borough of Hammersmith and Fulham.
 - The application Ref is 2021/03498/ADV.
 - The development proposed is the replacement and upgrade of an existing illuminated and advertised enclosed telephone kiosk with a multifunctional communication hub including advertisement display.
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Decision

1. Appeal A and Appeal B are dismissed.

Procedural Matters

2. The appeals relate to the same site and the same proposed development, namely a multifunctional communications hub which, amongst other things, would have an illuminated digital advertisement display. To avoid unnecessary repetition, the 2 appeals have been dealt with in a single Decision letter but the appeals themselves have been considered based upon their own merits.
3. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) require that applications for the display of advertisements are considered in terms of amenity and public safety. Although the reasons for refusal for Appeal B refer to policies contained in the Hammersmith and Fulham Local Plan (LP), including Policy DC9, and the council's *Planning Guidance Supplementary Planning Document* (SPD) they are

material considerations rather than being decisive in the determination of this appeal.

4. In respect of Appeal A, there are duties 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. Also, there is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. In advertisement appeals this is only relevant in so far as it relates to amenity. Where relevant, the statutory duties for designated heritage assets are echoed in LP Policies DC1 and DC8 and SPD Key Principle CAG2 and CAG3.

Main Issues

5. It is considered that the main issue for Appeal A is the effect of the proposed development on the character and appearance of the streetscene. For Appeal B, the main issue is the effect of the proposed advertisement on visual amenity.

Reasons

6. The site of the proposed communication hub is currently occupied by a telephone kiosk and is located within a well-used footway along a road which possesses a primarily commercial frontage. The site is outside the entrance to a gym. There are other advertisements along the road, including hanging and fascia signs and 'A' boards. Within the footway there is other street furniture, including cycle parking stands, bus stops, rubbish bins, lamp posts, traffic signs and bollards. Outside the near-by public house, which is a non-designated heritage asset, there are chairs and tables.
7. When assessed in its own right, the siting, design and scale of the proposed hub would appear an imposing addition to the streetscene with added visual prominence due to the proposed advertisement panel. However, the overall scale and bulk of the proposed hub would be materially smaller than the existing kiosk it would replace. Accordingly, as a structure, the proposed hub would not be as visually prominent or conspicuous as the current kiosk and would not add to any street clutter along this part of Shepherd Bush Road.
8. Included as part of the appeal scheme is a LCD screen to display advertising which would replace the kiosk's static printed image display. Although the existing kiosk had consent to display an illuminated LED advertisement (Ref 2018/01765/ADV), the proposed advertisement would introduce a sizeable element of illumination that would be noticeable, even within the context of the entrance to the adjacent gym and the other commercial uses fronting the road. The proposed illuminated display would be a noticeable feature and would cause some harm to the visual amenity of the streetscene albeit not at a sufficient level for this appeal to fail solely for this reason.
9. However, the site is situated within the extensive Hammersmith Broadway Conservation Area which encompasses primarily retail and commercial uses. There are variations in the character and appearance of the Conservation Area. The site is also adjacent to Grade II Listed Buildings comprising Hammersmith Police Station, the former Fire Station and Hammersmith Library.

10. By reason of siting, design and scale, the appeal scheme would be visible against the backdrop of the Listed Buildings and would, therefore, be within the setting of these designated heritage assets, more particularly the Library and former Fire Station. The reduction in scale and bulk of proposed communication hub when compared to the current kiosk would contribute towards preserving the setting of the Listed Buildings and the character and appearance of the Conservation Area.
11. However, the prominent visual effect of the illuminated advertisement panel with its changing images, would visually compete with these Listed Buildings, harming their setting and detracting from their significance as designated heritage assets. Further, and for the same reasons, the appeal scheme would fail to preserve the character and appearance of this part of the Conservation Area where illumination is mainly associated with windows and streetlights, together with modestly illuminated signs, rather than sizable items of street furniture such as the type of advertisement proposed.
12. Although the degree of harm to the designated heritage assets would be localised and less than substantial, in accordance with paragraph 202 of the National Planning Policy Framework (the Framework), where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. This balancing exercise applies to Appeal A.
13. In this case, the appeal scheme would provide a range of services, including WiFi, device charging, messaging facilities, free calls to landlines and charities, wayfinding and a defibrillator. It would be powered by renewable energy, would generate minimal waste and would include features to prevent crime and anti social behaviour. The proposed development would provide a platform for other technologies such as environmental conditions, CCTV and key data, and could support businesses and the vitality of the area.
14. However, even acknowledging the support in the Framework for high quality communications, these public benefits would be modest. The identified public benefits would fail to outweigh the less than substantial harm to the designated heritage assets as required by the Framework.
15. For the reasons given associated with the illuminated LED display, it is concluded that for Appeal A the proposed development would cause unacceptable harm to the character and appearance of the streetscene and, as such, it would conflict with LP Policies DC1, DC8 and DC9 which refers to advertisements being in keeping with its location within which is located. For the same reasons, it is concluded that Appeal B would harm the visual amenity of the area. Accordingly, it is concluded that Appeal A and Appeal B should both be dismissed.

D J Barnes

INSPECTOR