

Appeal Decision

Site visit made on 18 January 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2024

Appeal A Ref: APP/L5810/W/23/3325307

Pavement outside 27F The Quadrant, Richmond TW9 1DN

- 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 Richmond.
 - The application, Ref. 23/0481/FUL, dated 23 February 2023, was refused by notice dated 25 April 2023.
 - The development proposed is the installation of an open access Communication hub.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of an open access Communication hub on the pavement outside 27F The Quadrant, Richmond in accordance with the terms of the application ref. 23/0481/FUL, dated 23 February 2023, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The appeal relates to the refusal of planning permission for the proposed Communication Hub. An appeal in respect of the refusal of advertisement consent for displays on the LCD advert screen for this communication hub was submitted outside the prescribed time period and therefore not processed. However, in this appeal I must have some regard to the use of the equipment for the illuminated display of advertisements.
 3. Since the Notice of Refusal was issued the National Planning Policy Framework 2023 ('the Framework') has been amended with consequential alterations to paragraph numbers, referred to in their revised form below.
 4. Paragraph 118 of the National Planning Policy Framework 2023 ('the Framework') states that advanced high quality and reliable communications infrastructure is essential for economic growth and social well-being and that planning policies and decisions should support the expansion of electronic communications networks.
 5. Paragraph 122 says that applications must be determined on planning grounds only and should not seek to prevent competition between different operators or question the need for an electronic communications system. I have had regard to these and other statements of Government policy in the Framework and considered them in conjunction with the policies of the Richmond Upon Thames
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Local Plan 2018 cited by the Council in its decision on the application. These are Local Plan Policies LP1, LP3, LP4 & LP21.

6. The supportive nature of Government policy on the expansion of electronic communications networks when considered against the more restrictive form of the development plan policies clearly necessitates a balanced decision. However, in my view it is the specifics of the site's characteristics and the extent to which the proposed equipment and its illuminated displays would be in keeping with its surroundings that are primarily the determinative factors in this appeal.

Main Issue

7. The main issue is the effect of the proposed Street Hub on the character and appearance of the Central Richmond Conservation Area. Whilst the Refusal Notice also refers to the effect on flood risk, I have considered this as an 'Other Matter' rather than a main issue.

Reasons

Character and Appearance of the Conservation Area

8. On the main issue, the Council's objection is that the proposed hub would have an unduly prominent visual impact and cause excessive clutter. It is also considered that it would be harmful to the setting of nearby Buildings of Townscape Merit ('BsTM') and that these combined effects would cause 'less than substantial harm' to the character and appearance of the conservation area.
9. I note that in the vicinity of the appeal site, Richmond railway station and the adjacent No. 28 The Quadrant are locally listed as BsTM. However, in this case the communication hub would replace an existing phone kiosk which because its poor design and dilapidated condition draws the eye as a negative feature in the street scene. In my view the replacement hub in itself would be an improvement in the street scene, and this is supported by the fact that the plans and illustrations forming part of the application also show a significant reduction in footprint. Moreover, I consider that the specifics of the site characteristics to be such that they are less of a constraint than other locations in the town centre and conservation area including the sites in Hill Street and George Street where I have determined contemporaneous appeals.
10. In broader terms, other than the station and No. 28 The Quadrant my attention has not been drawn to the contribution of BsTM to the appeal site surroundings. The opposite side of the road has large buildings of a modern design and four storey height. On the same side as the proposed hub, albeit set back to the rear of the wide pavement, is a large four storey rectilinear building with its upper three storeys fully glazed and having no obvious aesthetic merit or connection with the local historic townscape. Drummonds Place, which leads to the car park and other large buildings to the rear, is arguably an unfortunate break in the continuity of the street scene. I consider that the combination of all these factors results in a character and appearance of a more modern, commercially assertive and ubiquitous townscape, notwithstanding that it forms part of the conservation area.

11. This is compounded by the smaller structures of the immediate surroundings of the proposed hub site. The single storey shopfronts between the station entrance and the car park access are of a limited quality, made worse by inappropriate signage, and there is a particularly tall pole which although slender has an incongruous mix of a floodlight, a camera, a hanging basket, and other unidentifiable clutter. There is also a large elevated directional parking sign for the NCP car park which is a bulky and particularly unsympathetic feature and presumably illuminated at night.
12. The cycle stand is much more 'routine' and inoffensive, albeit it is only 100 metres or so from the larger one adjacent to the pelican crossing. Finally, the adjacent layby used as a taxi rank gives emphasis to this part of the town centre and conservation area as an arrival and departure zone where paragraph 118 of the Framework might reasonably be expected to be afforded significant weight (paragraph 4 above refers).
13. Accordingly, given this overtly commercial 'town centre' character and appearance and also taking into account the railway station, with its large-scale comings and goings of pedestrians that add to the 'busyness' of the street scene, I can find no reason why the communications hub would be perceived by the great majority of residents and visitors alike as being out of place or harmful to the street scene. Indeed, it is this sort of location where an on-street communication hub with digital advertising might reasonably be expected and where the free services it offers are the most useful, not least given the large numbers of people in the vicinity including visitors arriving by rail.
14. In making these observations I am fully cognisant of the statutory duty of the decision-maker under the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area. However, for the reasons explained I do not consider that on this particular site a communications hub as proposed would diminish the significance of the designated heritage asset.

Other Matter

15. The Council considers that in addition to the harm caused to the Conservation Area, there is insufficient evidence to demonstrate that the development would not increase the flood risk elsewhere. I acknowledge that the Council considers that the application is deficient in terms of Local Plan Policy LP21's requirement of a Flood Risk Assessment, but in this appeal no evidence has been provided of a risk from flooding.
16. Moreover, the development also includes the removal of the existing kiosk. And with its replacement having a site area of less than 0.5sqm and a reduced footprint from that of the existing kiosk, common sense indicates that there would be less rather than more harm from flooding as a result of the appeal proposal. For these reasons I do not consider that the appeal should be dismissed on the basis of flood risk and a harmful conflict with Local Plan Policy LP21.

Conclusion and conditions

17. In summary, and having taken into account all third-party objections, I find on the main issue that the proposed Communication hub would not adversely affect the significance of the conservation area as a designated heritage asset and would thereby preserve its character and appearance. Accordingly, there would be no harmful conflict with the local and national policies referred to in paragraphs 4 & 5 of this Decision. For these reasons I shall allow the appeal.
18. Both the appellant and the Council have suggested some conditions and I agree that these are reasonable and necessary. However, I have excluded the appellant's conditions relating to screen use as these appear to be more appropriately applied to a permission for advertising consent. I note that this is also the Council's view, as indicated by its own suggested conditions.
19. A condition requiring the development to be carried out in accordance with the approved plans and documents is needed for certainty and is in the interests of proper planning. Conditions requiring making good of the pavement at the time of its construction and the removal of the existing kiosk are needed to maintain the visual amenity of the street scene. The same reason justifies a condition requiring the communication hub's removal if and when it ceases to operate.
20. A condition regulating the type of construction machinery to be used will safeguard health and amenity by reducing noise and harmful emissions. Finally, a condition requiring the provision of a defibrillator will make a positive contribution to the supply of these emergency health aids in the town centre.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development shall begin no later than three years from the date of this Decision;
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: OS based Site D Plans at scales 1:1250 & 1:200 and images received by the Local Planning Authority on 23 February 2023; Appendix B received 28 March 2023.
- 3) The existing telephone kiosk in place at the application site shall be removed in its entirety when the new Hub unit is installed and before it becomes operational. This deadline shall also apply to the pavement being made good in materials matching the adjacent parts of the pavement in accordance with details first agreed in writing with the Local Planning Authority;
- 4) During onsite construction of any phase of development, all non-road transportable industrial equipment or vehicles which are fitted with an internal diesel powered compression ignition engine between 37 and 560KW and not intended for transporting goods or passengers on roads shall meet Stage IIIB of EU Directive 97/68/E and be NRMM registered. Such vehicles shall be run on ultra low sulphur diesel (also known as ULSD 'cleaner diesel' or 'green diesel') meeting the specification within BS EN 590;
- 5) Exemptions to these standards may be granted for specialist equipment or for equipment with alternative emission reduction equipment or run on alternative fuels. Such exemptions shall be applied for in writing to the Local Planning Authority in advance of the use of such vehicles, detailing the reasons for the exemption being sought and clearly identifying the subject vehicles. Exemptions that are granted will be in writing and such vehicles shall not be used until written exemption has been issued by the Local Planning Authority. No vehicles or plant to which the above emission standards apply shall be on site, at any time, whether in use or not, unless it complies with the above standards;
- 6) Prior to the operation of the Hub unit hereby approved, the developer shall at their own cost provide a defibrillator unit to be installed within the proposed unit or at another town centre location at the discretion of the Richmond Society and the Local Planning Authority. Any such device shall be thereafter permanently maintained by the developer;
- 7) In the event that the proposed kiosk is no longer required for electronic communication purposes the structure shall be removed in its entirety and the pavement made good in accordance with details first agreed in writing with the Local Planning Authority. The removal and reinstatement works shall be completed within three months of the date the kiosk ceases to be in use.