



Appeal Decisions

Site visit made on 28 January 2025

by **A Hunter LLB (Hons) PG Dip MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal A Ref: APP/A5270/W/24/3352463

Pavement Adjacent 161 High Street, Acton, London W3 6LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Ollie Smith of Urban Innovation Company (UIC) Ltd against the decision of the Council of the London Borough of Ealing.
 - The application Ref is 242884FUL.
 - The development proposed is the installation of "Pulse Smart Hub" with integrated digital screens.
-

Appeal B Ref: APP/A5270/H/24/3352464

Pavement Adjacent 161 High Street, Acton, London W3 6LP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr Ollie Smith of Urban Innovation Company (UIC) Ltd against the decision of the Council of the London Borough of Ealing.
 - The application Ref is 242885ADV.
 - The advertisement proposed is the installation of "Pulse Smart Hub" with integrated digital and two sided digital advertising LED displays.
-

Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. As the changes do not materially affect the main issues in these appeals, the parties have not been invited to comment further and there would be no unfairness to any party as a result. Where references are made to paragraph numbers of the Framework, these are references to the most recent version.
4. In terms of Appeal B, the description of the proposal has been taken from the Council's notice of decision as it most accurately describes the proposed advertisement.
5. 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.

6. The appeal site is located within Acton Town Centre Conservation Area (CA), Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In advertisement appeals (Appeal B) this is only relevant in so far as it relates to amenity.
7. In relation to Appeal B, the Council's reason for refusal refers to development plan policies. 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

8. The main issue in respect of Appeal A is the effect of the proposal on the character and appearance of the area, including the CA, and on highway and pedestrian safety. The main issues in respect of Appeal B are the effect of the proposed advertisement on the visual amenity of the area and public safety.

Reasons

Character and appearance/visual amenity (appeals A and B)

9. The proposed electronic display hub would measure 2.54 metres high, 1.28 metres wide at its greatest, and be 0.35 metres deep. It would provide a double-sided advertisement display, along with digital connectivity. The pavement where the proposed hub is to be sited, is much narrower than the pavement on the opposite side of the road, where a similar digital display hub¹ is also located (said to have been approved in 2019 as part of a scheme for a replacement of similar but larger structures). I saw on my site inspection that this part of High Street is a busy thoroughfare for pedestrians, cyclists and vehicles, with a range of uses at the back edge of the pavement, including shops, restaurants and takeaways. On the pavement near to the appeal site are a range of different street furniture, including a street tree, several cycle stands, a bin and a large plant pot, along with traffic signs, which are all mostly located on the pavement side nearest the carriageway.
10. The Council's Acton Town Centre Conservation Area Character Appraisal, dated April 2009 (CACA), states the CA contains a mixture of uses and High Street, being the main thoroughfare, extends across the entire CA from east-west. It further says that the curve along High Street produces a townscape of strong incident, but it is the relationship of the buildings, streets, and spaces as a whole that provides the key to its character. The CACA also recognises views from High Street, looking east towards the Town Hall complex as important. These aspects collectively contribute to the significance of this part of the CA. The CACA also adds that much of the existing street furniture is out of character with the area, and it would be desirable for it to be coordinated properly, to improve the pedestrian environment.

¹ Ref: 191192FUL

11. The large digital screens, which would show changing advertisements, together with the modern curved edged structure would introduce a wholly discordant feature onto the pavement edge, close to the carriageway and harm the visual amenity of the area. Its prominent siting and large scale in relation to most of the street furniture around it, would be highly conspicuous, and its bold appearance would harmfully contrast against the mainly open pavement areas and the nearby buildings within the CA that it would be seen against. In addition, the proposed hub would add to the amount of street furniture on the pavement in the immediate area, making this busy area dominated with varying unconnected street furniture, further harming the character and appearance of the CA and the amenity of the area.
12. Furthermore, the proposal, along with the existing hub, would add to the concentration of hubs in the immediate area, which would cumulatively harm the amenity of the area and the CA. Although the brightness of the screens could be controlled by condition, the overall visual effect of the proposed hub would be particularly noticeable and harmful, particularly in the hours of darkness.
13. Given the intervening distance, structures, existing commercial signage, street trees and the curve in the road, I am not persuaded that the proposal would unacceptably harm views of the Town Hall complex, in this case.
14. The appellant's reference to a decision by the Council to grant prior approval² in 2017 for a telephone kiosk at the appeal site is noted, including that it would have occupied at similar location, and had a slightly larger footprint. However, I have not been provided with plans of the kiosk for comparison to the appeal proposal. It was also considered as part of a prior approval application, much different to the planning and advertisement consent applications the subject of this appeal, and the appearance of the kiosk was likely to be much different to the proposed digital display hub the subject of this appeal. Moreover, it is noted that it was approved some time ago, prior to the adoption of The London Plan (adopted 2021). The earlier approval was also not implemented, as such it is not a legitimate fallback position for the appellant. Accordingly, I attach limited weight to it in my decision.
15. The appellant has also said that the proposal would involve no significant ground excavations, be that as it may, that does not outweigh the identified harm above.
16. To conclude, in respect of Appeal A, the proposal would harm the character and appearance of the area, including the CA, and the proposed development would not preserve or enhance the character or appearance of the CA, contrary to the duty in the Act. In relation to Appeal B, 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 4C, 7.4, and 7C of Ealing's Development Management, Development Plan Document, adopted December 2013 (DPD) and Policies HC1, 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 that delivers spaces that positively respond to local distinctiveness, conserve the significance of heritage assets, ensure the public realm is well-designed, legible, and require unnecessary street furniture be refused. In addition, the proposals would conflict with paragraph 135 of the National Planning Policy Framework, that amongst other things seek development

² Ref. 171032PNT

to add to the overall quality of an area, be visually attractive and sympathetic to local character.

17. The Council referred to both appeal proposals conflicting with LP Policies D1, D4, SD6. Policy D1 relates to plan making, Policy D4 is focussed on strategic design review and analysis, and Policy SD6 mainly relates to the type of land uses within town centres and high streets. I did not find these policies to be directly relevant to this main issue on either of the appeals.

Highway and pedestrian safety/public safety (appeals A and B)

18. The location of the proposed hub would not completely align with adjoining street furniture, as a result it would significantly reduce the width of the pavement said to be to 1.41 metres at its narrowest, very close to the entrances to shops at the back edge of the pavement.
19. As a result, pedestrian movements along the pavement would be heavily constrained particularly when users meet and are travelling in opposite directions, including vulnerable users, and those with a pushchair or wheelchair. It would also likely reduce pedestrian visibility on the pavement itself, making it harder to anticipate other users travelling in different directions. Its siting would therefore be harmful to the safe operation of pedestrian movements along the nearby pavement causing unacceptable impacts on public safety.
20. The Council referred to the proposed advertising on the hub causing an unacceptable distraction to drivers. However, given the similar hub on the opposite side of the road, and the commercial advertising on the frontage of nearby premises, I did not find the addition of the proposal would cause an unacceptable distraction to drivers or pedestrians. The 0.6 metres or so retained space between the proposal and the carriageway edge would ensure that pedestrians seeking to cross High Street at this point could adequately see approaching vehicles on both sides of the carriageway before deciding whether to cross the road.
21. In view of the above, I therefore conclude that regarding Appeal A, the proposal would harm pedestrian safety, and in terms of Appeal B, the proposed advertisement would be harmful to public safety. As such, in both cases there would be conflict with LP Policies D8 and T4, which seek to ensure development is safe, including the movements along the public realm and ensure protection for desire lines for people walking, and not create harmful highway and transport impacts, or increase road danger. In addition, there would be conflict with paragraph 117 of the Framework that requires development to create places that are safe and secure and give priority to pedestrian movements.

Other Matters

22. The proposal would provide some public benefits in the form of public access facilities, free Wi-Fi, free phone calls with a speaker, wayfinding, device charging, connection to emergency services, local information relating to upcoming events, council services, and helplines. There would also be advertising opportunities, including for local businesses, which would create economic benefits. However, in view of the limited scale of the proposal, and that some of these services and advertising are said to be already provided on the nearby hub, or in the case of Wi-Fi at Acton Library, or in local cafes, these public benefits arising are very limited.

Moreover, I am not persuaded that most of these services, if required, could not be provided in a less obtrusive format or location.

23. The proposed hub would also incorporate a defibrillator, a built-in Nasal Naloxone opioid antagonist (a drug used under controlled conditions for the emergency treatment of a drug overdose) and a safety button for vulnerable persons. Whilst these facilities are important for public health, it is unclear whether some of them, if not all of them, are already available locally, and if not, whether they could be located elsewhere in the locality in a more acceptable form. Accordingly, this aspect only attracts limited weight.

Planning Balance and Conclusion

24. In terms of Appeal A, I have found the proposal to be harmful to the CA and pedestrian safety. In doing so, I found that the proposed development fails to preserve or enhance the character or appearance of the CA. The proposal would also conflict with policies of the development plan, I give this harm significant weight in the planning balance of this appeal.
25. I find the harm to the CA to constitute less than substantial harm owing to the proposal's limited scale. Although, I consider the harm to the CA would be less than substantial, it is nonetheless a level of harm to which significant weight should be attached. Paragraph 215 of the Framework requires public benefits to outweigh such harm.
26. I acknowledge that Section 10 of the Framework supports the provision of high-quality electronic communication infrastructure. The proposed development would also include public benefits associated with the provision of a defibrillator, a built-in Nasal Naloxone opioid antagonist, and a safety button for vulnerable persons. In addition, there would be increased connectivity, advertising opportunities for businesses, and local services, free phone charging, Wi-Fi connectivity and free calls. However, at least some of these facilities are already provided close to the appeal site, and it is unclear if the other benefits of the proposal are also available locally, or that there could be alternative means for delivering them. In combination, I find the benefits of the proposal do not outweigh the harm I have identified.
27. 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