



Appeal Decisions

Site visit made on 25 February 2025

by **L Francis BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2025

Appeal A: APP/K3605/W/24/3347943

Pavement o/s Unit 9 The Heart, New Zealand Avenue, Walton-on-Thames, Surrey KT12 1GH

- 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 Nathan Still, In Focus Public Networks Limited against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/1010.
 - The development proposed is the installation of a modern, multifunction Hub unit featuring an integral advertisement display and defibrillator.
-

Appeal B: APP/K3605/H/24/3347945

Pavement o/s Unit 9 The Heart, New Zealand Ave, Walton-on-Thames, Surrey KT12 1GH

- 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 Nathan Still, In Focus Public Networks Limited against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/1044.
 - The advertisement proposed is the display of 1 x internally illuminated digital freestanding display.
-

Decision

1. Appeal A is allowed and planning permission is granted for installation of a modern, multifunction Hub unit featuring an integral advertisement display and defibrillator at Pavement o/s Unit 9 The Heart, New Zealand Avenue, Walton-on-Thames, Surrey KT12 1GH in accordance with the terms of the application, Ref 2024/1010, subject to the conditions in the attached schedule.
2. Appeal B is allowed and express consent is granted for the display of 1 x internally illuminated digital freestanding display at Pavement o/s Unit 9 The Heart, New Zealand Avenue, Walton-on-Thames, Surrey KT12 1GH in accordance with the terms of the application, Ref 2024/1044. The consent is for 5 years from the date of this decision and is subject to the 5 standard conditions set out in Schedule 2 of the 2007 Regulations and the additional conditions set out in the attached schedule.

Preliminary Matters

3. Appeal A relates to the refusal of planning permission for the proposed multifunction hub. Appeal B is in respect of the refusal of advertisement consent for the digital signage which would be an integral part of the hub proposed under Appeal A. I have combined the appeals into a single decision letter as they are intrinsically linked and raise similar issues though I have considered each on its individual merits.

4. I have changed the description of the advertisement in Appeal B from that contained on the application form since it referred to the hub and defibrillator which are not relevant. It reflects the Council's description in their decision letter, without reference to the associated planning permission.
5. The appellant's statement also refers to another multifunction hub proposal on land outside 15-19 High Street, Walton-on-Thames (Ref APP/K3605/W/24/3347937). That appeal is the subject of a separate decision.
6. 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 the relevant development plan policies into account as a material consideration.

Main Issues

7. For appeal A, the main issues are the effect of the proposal on, i) the character and appearance of the area and ii) the area of open space used for events.
8. For appeal B, the main issue is the effect of the advertisement on the visual amenity of the area.

Reasons

Character and Appearance and Visual Amenity

9. New Zealand Avenue is a spacious thoroughfare and the area around the appeal site is characterised by large commercial units at ground floor with residential flats above. The commercial units along this frontage are largely restaurants which also have external seating in defined areas outside the shopfronts. The shopfronts themselves are glazed and double height, with internally illuminated signage. A line of street trees effectively separates the main footway from the outdoor dining areas, beyond which there is a substantial area of footway between the street trees and kerb.
10. According to the specifications, the proposed 'multifunctional hub' would incorporate a protective canopy. There would be a digital display screen to one side, while to the opposite side, there would be facilities including a phone handset, defibrillator, charging connection and touch screen for interactive services. There would be CCTV within the hub. Solar panels on top of the canopy would be used to light the unit. With the hub in place, there would be just over 5m width between it and the external seating of the adjacent restaurant. It would be set back 1m from the kerb.
11. Street furniture in the immediate vicinity is largely clustered around the entrance to the pedestrian street running through the Heart shopping centre, where there are lampposts, telecom boxes, a wayfinding sign for the shopping centre and protective railings where the carriageway meets the footway. The location of the proposed hub, however, is well removed from this cluster of street furniture. It would not add to an existing proliferation or introduce excessive visual clutter. The hub would be visually separate from the restaurants, seating and street trees due to the width of the footway in this location.
12. The hub and its advertisement display would be viewed against the adjacent building's significant bulk and double height glazed shopfronts. Its appearance would

not jar with the scale and modern appearance of the adjacent commercial uses at street level.

13. I note the concerns of the Council with regard to the levels of illumination of the digital advertisement screen under Appeal B. The proposal confirms that the advertisement screen would be switched off between midnight and 6am each day. The advertisements would not exceed 300 candelas per square metre (cd/m²) during the hours of darkness. The changeover between advertisements would be instantaneous, and the image would not change any more frequently than once every 10 seconds. Subject to these restrictions by condition, I do not consider that the presence of a digital advertising screen in this location would harm the visual amenity of the area.
14. I therefore conclude that the proposal in Appeal A and Appeal B would be acceptable in terms of its effect on the character and appearance of the surrounding area and upon visual amenity. Accordingly, I find no conflict with Policies CS3 and CS17 of the Elmbridge Core Strategy adopted 2011 (CS), or Policies DM2, DM15 and DM16 of the Elmbridge Local Plan - Development Management Plan adopted 2015. Taken together, and amongst other things, these policies seek to ensure proposals preserve or enhance the character of an area, state that new development should deliver high quality, well designed public spaces and buildings, and ensure that advertisements and telecommunications equipment do not harm visual amenity.
15. The Council have also referred to CS Policy CS18 in their reason for refusal. This relates to development involving town centre uses and their contribution to the vitality and viability of the centre; it is not directly determinative in this main issue.

Open Space

16. The hub would be located in line with other street furniture on this part of the footway including a light column and railings near the entrance to the Heart shopping centre. The proposed location of the hub on the wide footway would allow sufficient space for all users of the footway, including those using wheelchairs or buggies, to pass without undue obstruction. There would be a very small loss of useable space on the highway for the events cited by the Council and interested parties. Nevertheless, I do not consider that due to its size and location the hub would unreasonably prevent or obstruct the events described either in terms of allowing pedestrians to pass or for reducing space available for stalls or other installations.
17. In light of the above, I am satisfied that the proposal would not be contrary to the aims of CS Policy CS16 to ensure the provision of accessible and sustainable social and community infrastructure.

Other Matters

18. My attention has been drawn to a similar proposal located on Esher High Street that was dismissed at appeal (Ref APP/K3605/W/24/3345772) on the grounds of its effect upon the character and appearance of the area. I have not been provided with any detail of the scheme. Nevertheless, I note that the location is within a different town to the appeal scheme and as such the considerations regarding character and appearance would not be directly comparable. I have assessed the appeal before me on its merits, with regard to the character and appearance of the surrounding area.
19. I note the representations from interested parties regarding the potential for obstruction. No objections were raised by the Highway Authority, and there is no

compelling evidence before me that would lead me to draw a different conclusion. Accordingly, I do not consider there would be harm to public safety from the appeal proposal.

20. I am satisfied that the proposed hub would be energy efficient, and the solar panels would assist in reducing the energy demand of the installation.
21. The hub would contain CCTV and I note the concerns of interested parties regarding the extent of image capture and data protection. However, these matters are controlled by other regulatory regimes.
22. With regard to the need for or content of advertisements, Planning Practice Guidance (Ref 18b-026-20140306) is clear that consent cannot be refused because advertisements are said to be unnecessary.
23. The proposal would not include a telecommunications mast or base station and as such I am satisfied that self-certification regarding the International Commission guidelines on non-ionising radiation protection would not be required in this instance.
24. In reaching my decision I have had regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability. I consider that the proposed advertisement would not discriminate against persons with these protected characteristics or the other aims of the PSED stated above.
25. Whilst I note the concerns of interested parties regarding the potential effect of digital advertising screens on conditions including epilepsy and ASD, I have no compelling evidence before me which would indicate that consent should be withheld based on the effect of digital screens on human health. I draw the same conclusions regarding the screens' effect upon animal health and biodiversity. As set out above, the images would be static and would not change more frequently than once every 10 seconds.
26. My attention has also been drawn to the effect of the hub's location on those with impaired sight or mobility. Given the width of the footway in this location relative to the hub's proposed location near the kerb away from any pedestrian crossing points, the hub would not cause undue obstruction.
27. Concerns have also been raised regarding the potential for anti-social behaviour and vandalism that might occur as a result of the hub. The appellant has provided a management plan detailing how the ongoing management of the hub will take place, including a 24-hour point of contact for the public and other means of reporting damage or misuse. I consider that this would address the issues raised and it will be necessary to secure this by condition.

Conditions

28. The Council has provided some suggested conditions for both appeals which I have considered against advice in the Framework and Planning Practice Guidance; as a consequence, I have amended or omitted some of the suggested wording.
29. For appeal A, condition 1 is the standard time limit condition and condition 2 requires the proposal to be carried out in accordance with the approved plans. These are necessary in the interests of clarity. I have not attached the Council's suggested

conditions 3 and 4. This is because the proposed drawings include the specification of materials which is already secured by condition 2. Condition 4 is unnecessary as the illumination of the advertisement will be controlled under the advertisement consent. The appellant has provided a management plan to address issues such as vandalism and I consider it is necessary, in the interests of maintaining a suitable appearance and for public safety, to require the unit to be operated in accordance with the management plan. I have attached a condition to this effect.

30. Appeal B would be subject to the 5 standard conditions, as set out in the Regulations. Condition 1 regarding the hub's illumination levels is necessary in the interests of visual amenity. The information submitted confirms that the hub screen could automatically adjust according to ambient light and I am therefore satisfied this condition would be enforceable. In addition, conditions 2, 3 and 4 are necessary to control the duration and transition of the advertisements in the interests of public safety and visual amenity.

Conclusion

31. For the reasons given above the appeals should be allowed.

L Francis

INSPECTOR

Schedule of Conditions

Appeal A: APP/K3605/W/24/3347943

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing nos: Location Plan; Proposed Site Plan ref A02507; Hub Unit Specification.
3. The development hereby permitted shall be operated and managed in accordance with the Communication Hub Unit Management Plan V4 June 2023 by JC Decaux, or an updated equivalent.

Appeal B: APP/K3605/H/24/3347945

1. The digital advertisement screen shall be switched off between the hours of 12.00 midnight and 6.00am. The intensity of the illumination of the digital signs permitted by this consent shall be no greater than 300 candelas per square metre when it is in operation during the hours of darkness.
2. The digital advertisement screen shall be statically illuminated and shall not display any moving, apparently moving or audible images (including animation, flashing, scrolling, three dimensional or video elements).
3. The minimum display time for the imagery on the digital display screen shall be 10 seconds.
4. Any change in the advertisement display shall be instantaneous and shall not include blending, fading, swiping or other animated transition methods. The display shall include a mechanism to freeze the image or switch off the screen in the event of a malfunction.

End of Schedule