



Appeal Decisions

Site visit made on 30 April 2025

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2025.

Appeal A Ref: APP/Z5630/W/24/3356171

Pavement Outside The Rotunda Centre, Clarence Street, Kingston upon Thames, London KT1 1QP

- 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 Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/01895/FUL.
 - The development proposed is installation of "Pulse Smart Hub" with integrated digital screens.
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Appeal B Ref: APP/Z5630/H/24/3356172

Pavement Outside The Rotunda Centre, Clarence Street, Kingston upon Thames, London KT1 1QP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a failure to give notice within the prescribed period of a decision on an application for express consent to display an advertisement.
 - The appeal is made by Mr Ollie Smith of Urban Innovation Company (UIC) Ltd against the Council of the Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/01896/ADV.
 - The advertisement proposed is installation of "Pulse Smart Hub" with integrated digital screens.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed and express consent for installation of "Pulse Smart Hub" with integrated digital screens is refused.

Preliminary Matters

3. There are two appeals on this site. Appeal A relates to the refusal of planning permission for the hub and Appeal B relates to the Council's failure to determine the application for advertisement consent. The communication hub and advertisement are integral to each other. I have dealt with each case on its individual merits, but to avoid duplication both proposals are considered together in this decision, except where otherwise indicated.
4. In respect of Appeal B, The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the regulations) require that advertisement appeal decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance confirm this approach. The development plan policies referred to by the Council in their

decision notice are not determinative, but I have taken them into account as a material consideration.

Main Issues

5. Appeal B is against the non-determination of the application. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the regulations) require that advertisement appeal decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance confirm this approach. The Council has submitted that had they determined the application, they would have refused it on highway safety grounds.
6. The main issue for both appeals would be the effect of the proposal on public safety with respect to the operation of the highway.
7. With respect to Appeal A only, there are the further main issues of:
 - The effect of the proposal on public safety; and
 - Whether the proposal demonstrates that energy consumption has been minimised.

Reasons

Highway Safety

8. The pavement along Clarence Street includes a two way cycle path which forms part of the Council's Go Cycle Infrastructure. While the pavement is wide at the junction of Clarence Street and Cromwell Road, the submitted plans indicate a width of 5m adjacent to the side elevation of The Rotunda. My site visit, carried out on a very pleasant spring day, showed that there can be considerable numbers of people and cyclists in the area.
9. Cyclists properly observing the use of the cycle path would be getting on or off their bikes in this location. The pavement narrows considerably from the wide area in front of The Rotunda to the footpath along Clarence Street. Consequently, this is a location with the potential for the free flow of pedestrians and cyclists to be interrupted.
10. It is proposed to position the kiosk on the pavement, adjacent to Clarence Street and a short distance from the on-street cycle path. This would introduce a barrier to most likely the movement of cyclists who would be brought increasingly into conflict with pedestrians. This would be further exacerbated by the fact people would be stood at the kiosk while using its services, further reducing the available width of pavement.
11. The proposal would therefore have adverse effect on public safety with respect to the operation of the highway. It would therefore be contrary to Kingston Core Strategy (2012) (CS) Policies DM8 and DM10 and London Plan (March 2021) Policies D3 and D8 which require development to prioritise the access needs of pedestrians and cyclists, encourage active travel, convenient pedestrian and cycle routes, and have regard to highway safety.

Crime and Disorder

12. The appeal site lies within a busy, commercial area which includes late night uses. It is therefore not unexpected that there are relatively high recorded incidences of crime in the vicinity of the appeal site.
13. It is proposed that the kiosk would provide a range of services to support digital access and connectivity. Although there would likely be increased use of mobile phones in proximity to a source of free WiFi and charging facilities, the same could be said of any number of locations and uses within an urban area. While reference is made to previous issues arising around communications hubs, no substantive evidence of the increase in crime and disorder around such hubs is before me.
14. It is also proposed to store naloxone, a prescription only medicine, at the kiosk, along with a defibrillator. Access to this would be restricted, with the appellant stating it would only be accessible via a code obtained from the emergency services. It seems unlikely that this storage, in and of itself, would be likely to increase levels of crime in the area. Concerns with the legality of the supply of naloxone in this manner would be addressed by other regimes.
15. I therefore consider there is insufficient evidence before me to allow me to conclude that the proposal would lead to an increase in crime and disorder in the area. It therefore would not conflict with CS Policies DM10 and CS14 and LP Policy D3 which require development to incorporate the principles of safe design, seek to improve community safety and achieve safe environments.

Energy Use

16. LP Policy SI2 seeks to minimise greenhouse gas emissions. Its requirements as they relate to development proposals apply only to major development. It therefore is not applicable to this proposal. Consequently, the development plan is silent on this issue insofar as it relates to this proposal.
17. Paragraph 164 of the Framework requires new development to be planned for in ways that help to reduce greenhouse gas emissions such as through location, orientation and design. Paragraph 166 expects new development to take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption. There is nothing in this wording to suggest that communications-type infrastructure should be required to demonstrate how energy use has been minimised.
18. I therefore conclude there is no planning reason that Appeal A should be required to demonstrate that energy consumption has been minimised.

Other Matters

19. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The Council has provided me with the listing descriptions of Bentnalls Depository and the Former Granada Cinema, both grade II listed buildings. Given the location of these buildings, the position of the appeal site and the intervening development, the appeal site does not lie within the setting of the listed buildings.

20. The reasons for refusal did not set out any other harms with respect to the character and appearance of the area. From my observations at my site visit, I have no reason to reach a different conclusion. The appeal site lies adjacent to a modern building, where the modern appearance and finish of the proposal would integrate into the street scene and advertisements would not be incongruous. However, this is to be expected of all well designed development and so would be neutral in my assessment
21. The appellant has referred me to a decision to grant prior approval for a telephone box at the appeal site in 2018. This is no longer extant and so would not represent a realistic fallback position. Furthermore, Appeal A requires planning permission, and is to be determined as such, while applications for prior approval are considered against the relevant criteria for that class. The Google Street View images submitted by the Council indicate that in April 2018, the cycle lane sign was not in place. In any event, I must assess this proposal on the basis of the site as I found it at my site visit.
22. The appellant has put forward that there would be public benefits arising from the proposal in the form of increased digital connectivity, particularly for vulnerable people or people in vulnerable situations, increased awareness of public and local services, access to medical equipment and environmental monitoring. I attach limited weight to these benefits, which could be secured by condition were I minded to allow the appeals.

Conclusion

23. For the reasons given above, Appeal A is dismissed and Appeal B is dismissed and express consent refused.

Jennifer Wallace

INSPECTOR