



Appeal Decision

Site visit made on 3 July 2025

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2025

Appeal Ref: APP/X5990/W/25/3363365

Telephone box outside 76 Oxford Street, London W1D 1BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Martin Stephens (JCDecaux UK Limited) against the decision of the Council of City of Westminster.
- The application Ref is 25/00452/FULL.
- The application sought planning permission for installation of an open access communication hub following the removal of existing communication apparatus without complying with conditions attached to planning permission Ref 24/04516/FULL, dated 19 December 2024.
- The conditions in dispute are Nos 2, 3, 4, 5, 6, 7, 8 and 12 which state that:
 - 2) *The permitted maximum luminance of the two digital display screens shall not exceed the level of 600cd/m2 if illuminated area is less than 10m2, if larger its 300cd/m2; during hours of darkness and all specifications shall be in accordance with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's 'Professional Lighting Guide 05 (PLG05): The Brightness of Illuminated Advertisements'.*
 - 3) *The illumination and advertisement/displayed image shall not be intermittent or flashing, not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements), not incorporate changing light patterns, and shall show two dimensional images only. (Please note the illumination of the proposed Hubs will need to adhere to limits of luminance, illuminance and intensity as advised in PLG05 [see Section 5 of Limiting the luminance of illuminated advertisements], and Guidance Note 01: The Reduction of Obtrusive Light).*
 - 4) *No content on the digital display screens shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.*
 - 5) *No audio associated with the advertisements.*
 - 6) *Messages relating to the same product shall not be sequenced.*
 - 7) *The advertisements displayed on each panel shall not change more frequently than once every 15 seconds.*
 - 8) *The interval between each piece of content on the digital display screens shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.*
 - 12) *The structure can remain for three years from the date of this letter. After that you must remove it and return the land to its previous condition.*
- The reasons given for the conditions are:
 - 2) *To protect the visual amenity of the area.*
 - 3) *To protect the visual amenity of the area and in the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021).*
 - 4) *In the interests of public safety as set out in Policies 24 and 25 of the City Plan 2019 - 2040 (April 2021).*
 - 5) *To protect the amenity of the area.*
 - 6) *To protect the visual amenity of the area.*
 - 7) *To protect the visual amenity of the area.*
 - 8) *To protect the visual amenity of the area.*
 - 12) *So that we can assess the effect of the structure and make sure it meets policy 24, 25, 38, 39, and 43 of the City Plan 2019-2040 (April 2021).*

Decision

1. The appeal is allowed and planning permission is granted for installation of an open access communication hub following the removal of existing communication apparatus at Telephone box outside 76 Oxford Street, London W1D 1BP in accordance with the application Ref 25/00452/FULL, without compliance with condition numbers 2, 3, 4, 5, 6, 7, 8, 11, 12 and 16 previously imposed on planning permission Ref 24/04516/FULL dated 19 December 2024 and subject to the conditions in the attached Schedule of Conditions.

Preliminary Matters

2. The communication hub the subject of the appeal is in situ at the appeal site.
3. Evidence before me indicates that the City of Westminster City Plan 2019-2040 is currently the subject of a partial review, and examination of it has commenced. However, I have limited information before me on the precise stage at which the examination has reached, the level of unresolved objection that there may be to it, which policies are the subject of the review and the degree of consistency of those policies with the content of the National Planning Policy Framework. Moreover, no policies the subject of the review have been submitted to me in evidence by the appeal parties. In such circumstances, the partial review of the City of Westminster City Plan 2019-2040 is a matter of very limited weight in my decision.

Background and Main Issues

4. Planning permission to install an open access communication hub was granted through planning permission reference 24/04516/FULL. Separately, advertisement consent was granted for the display of two internally illuminated LCD screens on the communication hub through application reference 24/04517/ADV.
5. The planning permission and the advertisement consent were each subject to conditions. Conditions 2, 3, 4, 5, 6, 7 and 8 imposed on the planning permission exert control over the LCD screens, and their wording mirrors conditions imposed on the advertisement consent. The appellant considers that the imposition of these conditions was necessary and reasonable only on the advertisement consent and not the planning permission.
6. Furthermore, condition 12 of the planning permission sets out that the installation of the communication hub is permitted for a period of 3 years only, after which it must be removed. The appellant asserts that this is also unreasonable and unnecessary. Similarly, the advertisement consent required the removal of the LCD screens following their display for 3 years, a requirement which the appellant has also objected, and which is the subject of a separate decision¹.
7. Given the evidence before me, and this background, my main issue is whether the disputed conditions 2, 3, 4, 5, 6, 7, 8 and 12 are necessary and reasonable having particular regard to the character and appearance of the area, highway safety and the potential for the pedestrianisation of Oxford Street.

¹ Appeal Decision Reference APP/X5990/H/25/3360353

Reasons

8. The display of advertisements is controlled through the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations). In effect, section 222 of the Town and Country Planning Act 1990 establishes that provided advertisements are displayed in accordance with the Regulations then planning permission for that development is deemed to have been granted.
9. The advertisements on the communication hub have advertisement consent by virtue of the consent referenced 24/04517/ADV. Therefore, planning permission is not required for the advertisements. Planning permission for a structure, in this case the communication hub, does not grant consent for the display of advertisements on it.
10. As a result, conditions imposed on a planning permission should not seek to control advertisements. The conditions imposed on the advertisement consent exert all the necessary control over the advertisements in respect of their effects upon amenity and public safety and thereby in turn, any effect of them upon the character and appearance of the area and highway safety. Therefore, the disputed conditions 2, 3, 4, 5, 6, 7 and 8 are each unnecessary and unreasonable.
11. The remaining condition in dispute is No 12 which sets out that the installation of the communication hub is permitted for a period of 3 years only, after which it must be removed.
12. Situated on Oxford Street, the appeal site is within a highly commercialised area. The pavement upon which the communication hub is situated has a bustling character, and Oxford Street is adorned with street furniture such as streetlights, traffic lights and bus stops. Close-by to the appeal site there is also a freestanding digital display in situ on the pavement. As a result of this combination of factors, the prevailing character and appearance of the area is very vibrant and visually lively, and street furniture in various guises is commonplace.
13. The appeal site is not within them but the East Marylebone, Hanway Street and Soho Conservation Areas (the East Marylebone CA, the Hanway Street CA and the Soho CA) are situated close-by. The significance of the East Marylebone CA is largely derived from its architectural and artistic interest: a diverse townscape which exhibits a rich mix of building types and uses together with a dense urban character. That the Oxford Street portions are very busy, yet other areas calmer, also contributes to the significance of the East Marylebone CA.
14. The Hanway Street CA exhibits an eclectic mix of architecture and attractive street frontages which represent high quality commercial architecture. Therefore, its significance is also principally derived from its architectural and artistic interest. The CA also has a bustling character.
15. Finally, Soho is a renowned centre for entertainment and this vibrant character contributes greatly to its character. The narrow street patterns, dense built form and mixed character of its buildings provide the Soho CA with architectural and artistic interest as well.
16. The communication hub is a relatively modest feature. It does not appear out of scale with some of the existing street furniture in the area nor does it form an unduly imposing presence on the pavement. It has a sleek design and a recessed colour finish which ensures that it is not strident. Given these factors, and having regard to

the prevailing character and appearance of the area, the communication hub does not appear as an incongruous feature out of keeping with the area. Instead, it forms another feature which contributes to the vitality exhibited locally, and it does so in an appropriate rather than an unsympathetic way.

17. Furthermore, since the nearer parts of the East Marylebone, Hanway Street and Soho CAs encompass Oxford Street and its vibrant and commercial character, the communication hub appropriately assimilates into their settings and causes no harm to the designated heritage assets.
18. For these reasons, although the Council cite that the communication hub has an obtrusive impact, given its design and its particular setting, it causes no harm to the character and appearance of the area and is acceptable. In addition, having granted planning permission, the Council has accepted the effects of the communication hub, albeit for a specified period.
19. The communication hub is positioned beside a straight section of road where visibility is good. Appropriately, the communication hub has been positioned so that it is setback a little from the road too. I have no reason to conclude that it is causing any impairment to the visibility of any drivers or cyclists or presenting a distraction to them. Although the communication hub has created a pinch-point on the pavement, it is for a small section of this part of Oxford Street, and the pavement is still quite wide. Furthermore, the evidence before me indicates to me that the telephone box which was previously sited in approximately the same position as the communication hub had a similar effect. Consequently, I have no reason to conclude that the communication hub has resulted in any detrimental effects upon pedestrians or movement on the pavement. For these reasons the erected communication hub has resulted in no effects which are prejudicial to highway safety.
20. The Planning Practice Guidance (the PPG) advocates the rigorous application of the tests for the imposition of conditions. The PPG further sets out the scenarios whereby the granting of planning permission for only a temporary period may be appropriate. This includes the scenario where it is expected that the planning circumstances will change in a particular way at the end of that period.
21. I have very limited information before me in relation to the pedestrianisation of Oxford Street cited by the Council. This includes no substantive evidence in relation to the likelihood of it coming into fruition, what works it would be likely to entail or any timescales for its implementation. Furthermore, should the cited pedestrianisation occur, I have no convincing evidence before me as to why the communication hub would be very likely to become incompatible with it and unacceptable on either character and appearance or highway safety grounds.
22. It is not clear enough to me that circumstances are very likely to change in a particular way at the end of the 3-year permission period or, even if they did, that the communication hub would be very likely to result in any harm.
23. In such circumstances, I find that condition 12 is unnecessary and unreasonable having particular regard to the character and appearance of the area, highway safety and the potential for the pedestrianisation of Oxford Street. The effects of removing conditions 2, 3, 4, 5, 6, 7, 8 and 12 complies with Policies 19, 24, 25, 33, 38, 39, 40 and 43 of the City of Westminster City Plan 2019-2040. Altogether, and in summary and amongst other matters, these Policies seek to ensure sensitive design which contributes positively to Westminster's townscape, conserves heritage assets,

contributes towards well-designed and clutter-free public realm, and which results in no adverse pollution or environmental effects. These Policies also seek to achieve a first-class public realm, contribute towards maintaining and enhancing streets and ensuring their safety. Finally, these Policies also support digital and telecommunications infrastructure subject, amongst other matters, to their effects upon public realm, local character and heritage assets.

Conditions

24. I have dealt with the disputed conditions in my main issue above. In addition, when granting planning permission under section 73, it is appropriate to review all conditions previously imposed on the earlier grant of planning permission and determine the necessity of their reimposition in their original or varied form.
25. As the development has already taken place, a condition relating to the standard implementation in accordance with the submitted plans and documents is unnecessary. However, in the interests of certainty, enforceability, the character and appearance of the area and highway safety, I have imposed a condition which sets out the approved plans and documents (condition 1).
26. Condition 9 of planning permission 24/04516/FULL seeks to ensure that the public highway is not blocked during the installation or maintenance of the development. In the interests of highway safety, I have reimposed a varied condition to this end but only in relation to the maintenance of the communication hub now that it has been installed (condition 2).
27. In the interests of crime prevention, I have reimposed a condition requiring the integrated CCTV system to be operational but in a varied form for the duration of the communication hub's operational lifetime from here on out (condition 4). Also, in the interests of crime prevention, I have restated conditions which prevent device charging (condition 5) and which ensure its proper maintenance and management (condition 6).
28. I have restated a condition which requires the communication hub to be maintained in a manner which does not impair visual amenity, albeit with a modest adjustment to its wording in the interests of clarity and precision (condition 3).
29. Since the development has been implemented, and since measures such as yellow line markings are in place in the vicinity of the site which exert parking controls, the reimposition of condition 11 of planning permission 24/04516/FULL is no longer necessary, and I have omitted it from my schedule. Similarly, with the communication hub in place, there is no longer the need to control the noise arising from the implementation of the development. Therefore, I have omitted condition 16 of the existing planning permission.

Conclusion

30. I have found that the disputed conditions are unnecessary and unreasonable, and the development is acceptable and compliant with the development plan without them. Therefore, I conclude that the appeal should be allowed, subject to the conditions in the attached schedule.

H Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted is as shown and identified on the following approved plans and documents:

Site Plan and Images A02549

Appendix A: Hub Unit Specification

Communication Hub: Unit Management Plan

Appendix D: Reinstatement

- 2) The footway and carriageway of the concerned public highway must not be blocked during the maintenance of the proposal. Temporary obstruction during the maintenance must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrian or obstruct the flow of traffic.
- 3) The communication hub shall be maintained in a condition that does not impair the visual amenity of the site.
- 4) For the operational lifetime of the communication hub hereby permitted, the integrated CCTV must also be operational and maintained.
- 5) Contrary to what is shown in the Hub Unit Specification, the hub must not provide the ability to 'charge a device'. The USB charging point and Qi wireless charging must be switched off permanently.
- 6) The Hub must be managed and maintained in line with the 'Communication Hub: Unit Management Plan'.