



Appeal Decisions

Site visit made on 27 November 2024

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2024

Appeal A Ref: APP/X5210/W/24/3352044

Telephone Box on Shaftesbury Avenue Junction of Earlham Street, Covent Garden, London WC2H 8JA

- 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 In Focus Network Limited against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2024/1581/P.
 - The development proposed is described as the replacement of existing telephone kiosk with an upgraded Communication Hub Unit.
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Appeal B Ref: APP/X5210/H/24/3352045

Telephone Box on Shaftesbury Avenue Junction of Earlham Street, Covent Garden, London WC2H 8JA

- 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 In Focus Network Limited against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2024/2370/A.
 - The advertisement proposed is described as the display of LCD advertisement display on rear façade of Communication Hub Unit.
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Decision Appeal A

1. The appeal is allowed and planning permission is granted for the replacement of existing telephone kiosk with an upgraded Communication Hub Unit at Telephone Box on Shaftesbury Avenue Junction of Earlham Street, Covent Garden, London WC2H 8JA in accordance with the terms of the application, Ref 2024/1581/P, subject to the conditions in the attached schedule.

Decision Appeal B

2. Appeal B is allowed and express consent is granted for the display of LCD advertisement display on rear façade of Communication Hub Unit. at Telephone Box on Shaftesbury Avenue Junction of Earlham Street, Covent Garden, London WC2H 8JA in accordance with the terms of the application, Ref 2024/2370/A. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in Schedule 2 of the 2007 Regulations and the additional conditions set out in the attached schedule.

Preliminary Matters

3. In December 2024, the Government published a revised National Planning Policy Framework (“the Framework”). Although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal. Consequently, the main parties would not be prejudiced by reference to the revised Framework.
4. As set out above there are two appeals on this site that were submitted together on a single application form covering both planning permission and express consent to display advertisements. They differ only in that appeal A is for planning permission and appeal B is for express advertisement consent. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. In respect of appeal B, the Regulations, and the Framework both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking into account cumulative impacts. Regard does not need to be had to the development plan. I have taken relevant policies into account as a material consideration; however, they have not, by themselves, been determinative.
6. The Council has questioned whether the existing kiosk has consent. It is not appropriate for me to come to a view on this matter within this appeal. However, it is clear that the existing kiosk has been in position for a considerable period of time. Moreover, the applications were submitted, assessed, and consulted on as a replacement structure. On this basis I am satisfied that I should assess the proposals as a replacement.
7. A description of development is not provided within the application form. I have therefore taken the descriptions used on the Council’s decision notices and as set out by the appellant on the appeal form.

Main Issues

8. The main issues for appeal A are the effect of the proposal on:
 - The character and appearance of the area and specifically whether the proposal would preserve or enhance the character or appearance of the CA;
 - Highway safety; and
 - Crime and antisocial behaviour.
9. The main issue for appeal B is the effect of the proposal on the amenity of the area including the CA.

Reasons (appeal A and appeal B)

Character, Appearance and Amenity

10. The proposal lies within the Seven Dials (Covent Garden) Conservation Area (“the CA”). Section 72 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 places a duty on decision makers with respect to any buildings

or land within a Conservation Area, to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

11. The appeal site sits at the intersection where Earham Street meets Shaftesbury Avenue. The significance of this part of the CA is defined, in part, from the diversity of building types, uses and the street layout. The immediate area has a dense urban character with tight-knit buildings of distinctive scale. These all contribute positively to the character and appearance of the CA.
12. The Camden Conservation Area Statement for Severn Dials (Covent Garden) ("the CAS") identifies Shaftesbury Avenue as having generally wider street and plot widths than the rest of the CA. The CAS also recognises the need to preserve and enhance the CA in the design and siting of street furniture.
13. While a snapshot in time, I noted during the site visit that the existing area is busy both with pedestrian footfall and vehicular movement along the roads. Existing street furniture in this location includes a waste bin and information plinth next to the existing kiosk and, nearby street signs and bollards. The urban character of the area is also complimented by trees which line Shaftesbury Avenue.
14. The proposed development would sit on the same footprint as the existing to be removed kiosk with a narrower footprint. Printed style advertisements would be replaced by an LCD digital screen and while not identical, the dimensions and colour of the proposed communications hub would be similar to the existing, to be removed, kiosk. While other phone kiosks are situated further away in the street scene, owing to the intervening distances and in some cases screening, I am satisfied that the proposal would not result in a harmful cumulative impact. Consequently, the proposed development would not add visual clutter to the area or a proliferation of signage in the area.
15. While there does not appear to be any other digital advertisements close to the appeal site, the ground floor of many surrounding buildings are active with glazing and several of these ground floor areas are internally illuminated. The adjacent tree has a wide trunk which would partially screen the advertisement further reducing its impact. In addition, a condition could be imposed to control the level of illumination both during the day and hours of darkness.
16. The Council is cautious as to how the proposed development would be maintained. However, a Unit Management Plan supports the application, and this sets out how the communication hub unit would be managed and maintained. This could be controlled via appropriate conditions, indeed, the standard conditions as set out in the regulations also state that advertisements are to be maintained in a condition that does not impair the visual amenity of the area. This gives the Council the ability to carry out enforcement action where the appearance of a unit causes harm. Furthermore, it is reasonable to expect that companies who should pay for the advertisements to be displayed on the unit would expect it to be kept in good order.
17. The proposed unit would be sited within the same footprint of the existing kiosk. Consequently, the appeal development cannot be implemented unless the existing kiosk is removed.

18. Tying these considerations together, a legal agreement would not be necessary to secure the removal of the existing kiosk or to ensure the communication hub's management and maintenance. Additionally, this appeal would be for one communication hub unit following removal of the existing kiosk. As such it has not been robustly shown that other kiosks or advertisements in the area, which are not the subject of this appeal, should also be removed.
19. In relation to appeal A, the proposal for a communication hub unit, would not unacceptably harm the character and appearance of the area and would have a neutral effect on the character or appearance of the CA. I, therefore, find no conflict with the requirements of Policies D1 and D2 of the Camden Local Plan 2017 ("the Local Plan"). These, amongst other things, look to ensure that development responds to the local urban context.
20. In relation to Appeal B, I have taken into account the policies of the Local Plan in so far as they are material in this case. Given my overall findings above, it would also not harm amenity.

Highway Safety

21. The footway along Shaftsbury Avenue is limited due to the existing trees and other structures. However, the footway widens out considerably into a pedestrianised area where it joins Earlam Street. Given this wide pedestrianised area, it has not been robustly shown that the proposed development would fail to accord with the recommended footway widths as set out for Appendix B of the Pedestrian Comfort Guidance for London (2019).
22. Even if it did, the proposed development would sit on the same footprint as the existing kiosk and the dimensions of the proposed communications hub would be similar to the existing, to be removed kiosk, including when people are using the hub. Limited evidence has been submitted with this appeal to show that the appeal site or the surrounding area suffers from an adversely negative walking experience or that pedestrian flows for all users of the highway are currently unsafe.
23. On this basis, the proposal would not have and unacceptable impact on the availability of pavement or reduce the amount of usable footway in the immediate area. It would not unacceptably hinder pedestrian movements, desire lines or have a detrimental impact on the promotion of walking as an alternative to motorised transport.
24. The proposed development would be near to traffic lights and a pedestrian crossing. The Council is concerned that the proposed advert would distract road users approaching the junction ahead. As indicated above the proposed development would be replacement in nature and there is no evidence before me to suggest the existing printed advert causes unsafe highway conditions.
25. The digital panel as proposed would face towards the end of the row of mature trees, which would considerably lessen its impact as it would only be visible for a short period. In addition, conditions can be imposed to control the intensity of the illumination while limiting any moving images and to ensure that no adverts resemble traffic signs.

26. Consequently, the proposed development would have an acceptable effect on highway safety. It would therefore accord with the relevant provisions of Policies G1, A1, C6 and T1 of the Local Plan. All of which seek to, amongst other things, ensure that development would not be detrimental to the safety of all highway users including vulnerable road users.

Crime and Antisocial Behaviour

27. The existing, to be removed, kiosk is a three-sided structure enclosed by a roof. This existing kiosk provides an area where persons could loiter and reasonably hide from passers-by, sheltered from the elements. The proposed development would also of similar proportions to the existing kiosk but would be of a simpler flat design with less enclosure and protection from the elements.
28. The communication hub would be designed with non-flammable, non-scratch anti-vandalism surfaces which would also be smooth for simpler cleaning. Inspections and checks would be frequently undertaken with response times for repairs, cleaning and damage set out in the management plan. Issues can also be reported by members of the public and other agencies.
29. The design includes features which would reduce opportunistic crime such as phone snatching and the unit makes provision for a camera which would be activated after a certain period should people loiter.
30. I am mindful that an Inspector noted elsewhere¹ 'that without a mechanism in place to ensure a new kiosk is properly maintained, it is probable that it would fall into a level of disrepair'. These findings were set against the Inspector's earlier comments about the area being prone to criminal activity and vandalism. The Inspector also found the replacement kiosk, in this other case, to be 'very conspicuous' and 'notably taller and larger than the existing kiosks'.
31. In this current case before me, I have found that the proposed development would be acceptable in character, appearance, and amenity terms. I have also not been furnished with clear evidence to show that the area is prone to elevated criminal activity or antisocial behaviour. Therefore, I do not consider the current appeal to materially correspond with this other appeal. Nonetheless conditions to secure implementation of the management plan can be imposed if this appeal is found to be acceptable in all other aspects.
32. I have considered the other decisions put to me in respect to crime and antisocial behaviour. However, there is limited documented evidence before me to suggest that crime or antisocial behaviour would unacceptably increase over existing levels or that it would be necessary, in this case, to secure a legal agreement to maintain the proposed communication hub. In addition, the proposed development would not be as attractive as the existing kiosk for someone to loiter or hide given the design changes.
33. As a result, the proposed development would not unacceptably increase opportunities for crime and antisocial behaviour. It would therefore accord with the relevant provisions of Policy C5 of the Local Plan. All of which seek to, amongst other things, ensure that development would contribute toward community safety and security.

¹ Appeal Refs: APP/X5210/W/22/3297273 and APP/X5210/W/22/3297276.

Other Matters

34. I note the other decisions put to me by the Council. Many of these have turned on their own individual merits such as the layout of the street scene, cumulative totals of street furniture, landscape features, visibility of traffic signals, pedestrian visibility of traffic, driver attention, impact upon heritage assets, access to public transport, or varying pavement widths. These are different to the appeals before me, and each appeal should be considered on its own merits as I have done in this case.
35. The need for telecommunications is questioned, however, I am mindful of the Framework which states at paragraph 123 that the need for an electronic communications system should not be questioned. Aside from the matters of character, appearance, and amenity that I have already covered, I am not satisfied that the proximity of the proposed units to other existing units is a matter that should cause this appeal to fail. In any case, the communication hub would replace an existing kiosk, so the proposal would not result in an increase in provision.
36. The Council suggest that the existing kiosk would have been established under permitted development rights and such equipment should be removed if they are no longer required for telecommunication purposes. However, there is limited evidence before me to show telecommunications are no longer required at this site.

Conditions

37. The Council has suggested a list of conditions which I have considered and where necessary amended in line with national policy and guidance.
38. In regard to appeal A, in the interest of certainty, conditions specifying time and the approved plans are required. Conditions are required to ensure that the structure is removed when no longer necessary and to ensure that the surface materials match the existing to maintain the character and appearance of the area. A further condition is also necessary to ensure that the telephone kiosk is maintained in accordance with the management plan enabling the Council to exercise control over this.
39. Regarding appeal B, the conditions set out in the attached schedule are in addition to the five standard conditions set out in the Regulations. The standard conditions are not repeated in the schedule. Conditions are necessary to control the level of illuminance, restrict moving images, display, and interval time to ensure that they do not harm the character and appearance of the area or create a distraction for pedestrian and vehicular traffic.
40. Conditions are also necessary to ensure that advertisements displayed do not resemble traffic signs and that the footway and carriageway would not be blocked during installation and maintenance of the unit. Finally a condition is also needed to ensure that the advertisement does not emit music or sounds to protect the amenity of occupiers of nearby premises.

Conclusion

41. For the reasons set out above, and having had regard to all other material considerations, I conclude that appeals A and B should be allowed.

N Praine

INSPECTOR

Schedule of Conditions – Appeal A (5 in total)

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawings nos: A/489467/ 01 Rev A, A/489467/05 Rev B, A02497 Site Plan and Images document, Communication Hub Proposal Hub Unit Specification, and Communication Hub Unit Management Plan V4 June 2023.
3. The structure hereby permitted shall be removed from the land on which it is situated as soon as reasonably practicable after it is no longer required for telecommunication purposes.
4. All new or replacement surface materials should match the existing adjacent surface materials.
5. The telephone kiosk, including its electronic features, shall be managed in accordance with the Communication Hub Unit Management Plan V4 dated June 2023, for the lifetime of the development.

End of Schedule for appeal A

Schedule of conditions for appeal B, overleaf

Schedule of Conditions – Appeal B (7 in total)

1. The advertisement display shall be statically illuminated and the intensity of the illumination of the digital signs shall not exceed 2500 candelas per square metre during the day and 400 candelas per square metre during the hours of darkness in line with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's 'Professional Lighting Guide 05: The Brightness of Illuminated Advertisements' 2015. The levels of luminance on the digital signs should be controlled by light sensors to measure the ambient brightness and dimmers to control the lighting output to within these limits.
2. The digital sign shall not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent, or video elements).
3. The minimum display time for each advertisement shall be 10 seconds.
4. The interval between advertisements shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including fading, 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.
5. No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.
6. The footway and carriageway on the Transport for London Road Network (TLRN) and Strategic Road Network (SRN) must not be blocked during the installation and maintenance of the advertising panel. Temporary obstruction during the installation must be kept to a minimum and should not encroach on the clear space needed to provide safe passage for pedestrians, or obstruct the flow of traffic.
7. No music or sound shall be emitted from the advertisements.

End of Schedule for appeal B