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## Appeal Decisions

Site visit made on 11 March 2025

by **A Parkin BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date:

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### **Appeal A Ref: APP/X5210/W/24/3354411**

#### **Pavement on the north side of Theobald's Road, southwest of the junction with Old Gloucester Street, London WC1B 4AR**

- 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 Urban Innovation Company (UIC) Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2024/3309/P.
  - The development proposed is the installation of a "Pulse Smart Hub" with integrated digital screens.
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### **Appeal B Ref: APP/X5210/H/24/3354412**

#### **Pavement on the north side of Theobald's Road, southwest of the junction with Old Gloucester Street, London WC1B 4AR**

- 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 Urban Innovation Company (UIC) Ltd against the decision of the Council of the London Borough of Camden.
  - The application Ref is 2024/3440/A.
  - The advertisements proposed are integrated digital screens on a "Pulse Smart Hub".
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### **Appeal A: Decision**

1. Appeal A is dismissed.

### **Appeal B: Decision**

2. Appeal B is dismissed.

### **Preliminary Matters**

3. The address on the application forms and appeal forms for both appeals is inaccurate; the Holborn Hotel does not exist. Based upon the evidence and my observations on site I have amended the appeal addresses accordingly in the banner heading above.
4. The description of the proposed advertisements is also inaccurate and so I have also amended this description in the banner heading above.
5. As set out above there are two appeals on this site. Appeal A concerns the installation of a 'Pulse Smart Hub' (PSH), a freestanding piece of telecommunications apparatus upon which, amongst other things, advertisements would be displayed on the two integrated digital screens. Appeal B concerns the

express consent to display the advertisements on the two integrated screens. I have considered each proposal on its individual merits and with regard to relevant legislation, policy and guidance. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

6. I note the appellant's references to caselaw to support consistency in decision making. I am not fully familiar with the proposal for a telecommunications kiosk approved at appeal<sup>1</sup> on this part of Theobald's Road. However, this concerned an application for prior approval<sup>2</sup> rather than an application for planning permission and no application for advertisement consent was made in association with the kiosk.
7. From the limited evidence before me it seems the scale, design and materials of the proposed PSH would also be different to the kiosk approved at appeal. For both Appeal A and Appeal B, I have considered the proposals before me on their individual merits.
8. For Appeal A, given the appeal site's location near to listed buildings, I have had regard to section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Main Issues**

9. Appeal A: The main issues are the effect of the proposed development on:
  - Designated heritage assets in the area;
  - Pedestrian movement; and,
  - Public safety.
10. Appeal B: The main issues are the effect of the proposed advertisements on:
  - Visual amenity; and,
  - Public safety.

### **Reasons**

11. The proposed PSH is described as the 21<sup>st</sup> century evolution of the telephone kiosk. It would provide various telecommunications services, including free public wi-fi, free telephone calls, free device-charging and is said to be '4G and 5G small cell ready'.
12. It would be constructed of dark metal and glass, with a red fibreglass trim. It would be a rounded rectangular shape, some 2.54 metres high, some 1.28 metres wide and some 0.35 metres deep. On both the front and rear elevations a digital display screen, some 1.66 metres high by some 0.93 metres wide, would be positioned showing advertisements and a proportion of public information messages, and as necessary, emergency services messages.
13. The PSH would be positioned within the footway close to the metal railings that separate the footway from the carriageway and to the northeast of a mature deciduous tree. A controlled pedestrian crossing of Theobald's Road, including a railed central island refuge, is located to the south of the site.

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<sup>1</sup> Ref. APP/X5210/W/18/3195372

<sup>2</sup> Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

14. The PSH would be positioned to face in north-north-easterly / south-south-westerly directions, so the displays would be readily visible to pedestrians using the footway in both directions as well as the pedestrian crossing of Theobald's Road.

*Designated heritage assets and visual amenity*

15. The appeal site is not located within a conservation area or next to a listed building. However, there are a number of conservation areas and listed buildings nearby, which are designated heritage assets.
16. The Kingsway conservation area (KCA) is located to the south of the appeal site on the southern side of Theobald's Road. It extends southwards along Southampton Row and includes a number of listed buildings nearby.
17. The Grade II\* listed Central St. Martin's College of Art and Design<sup>3</sup> is a five storey building at the corner of Southampton Row and Theobald's Road, constructed primarily from Portland Stone, including decorative features and with a granite base. It has a lead roof with a prominent double dome at the apex of the corner; at ground level there is an entrance and fenestration on Theobald's Road.
18. The significance of this listed building, insofar as it relates to Appeal A, stems from its design, materials, historical function and prominent position within the streetscene.
19. To the west of the college is the northern section of the Grade II listed former Kingsway Tram Subway<sup>4</sup>. The subway, now disused, is positioned centrally in Southampton Row and would be accessed by a ramp, lined with white glazed bricks, and with its original cobbles and tram tracks visible from the street. The entrance, close to Theobald's Road is marked by a pair of cast and wrought iron gas lamps on granite plinths, with cast iron railings separating the ramped access from Southampton Row.
20. The significance of this listed building, insofar as it relates to Appeal A, stems from its design, materials and historical function.
21. The majority of buildings within the KCA are commercial and were constructed during the early 20<sup>th</sup> century. There is a coherence in terms of massing, scale and materials of these buildings which form a distinct character within the wider area.
22. The significance of the KCA, insofar as it relates to Appeal A, stems from the cogent collection of buildings and streets serving them, including their architectural details and historical purpose.
23. The much larger Bloomsbury conservation area (BCA) has 14 distinct sub-areas and largely surrounds the appeal site and the KCA, including the western side of Southampton Row.
24. To the west of the appeal site across Southampton Row is the Grade II listed building Victoria House<sup>5</sup>, an imposing eight storey building with a mansard roof, constructed in the early 20<sup>th</sup> century and formerly the headquarters of the Liverpool Victoria Insurance Company.

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<sup>3</sup> List Entry Number: 1378790

<sup>4</sup> List Entry Number: 1378792

<sup>5</sup> List Entry Number: 1378788

25. The significance of this building, insofar as it relates to Appeal A, stems from its design, materials and prominent position within the BCA.
26. Opposite Victoria House to the south is Avenue Chambers<sup>6</sup>, which together with Nos 25 – 35 and 35A Southampton Row<sup>7</sup> comprise the five storey, plus attic building at the south western quadrant of the intersection between Southampton Row and Theobald's Road. Both buildings are Grade II listed and read as a corner building, with a generally coherent design and materials. The apex of the corner includes a tourelle, with a conical roof above.
27. The significance of these buildings, insofar as they relate to Appeal A, stem from their design and materials and their prominent location within the streetscene of the BCA.
28. The BCA is a large and diverse area that dates back to the mid-17<sup>th</sup> century and contains landscaped squares, elegant terraces and larger scale commercial and cultural buildings in the vicinity of the appeal site, many of which are listed. Insofar as it relates to appeal A, the significance of the BCA stems from the planned historical development of the area and the visually prominent listed buildings to be found there.
29. Pedestrians, cyclists and motorists travelling south down Old Gloucester Street, as well as pedestrians travelling west on the northern side of Theobald's Road are able to view the aforementioned listed buildings in the BCA and KCA.
30. There are also elements of street furniture in the area, including lampposts, traffic signals, railings and pedestrian crossings, most of which are not shown on the submitted drawings. These do affect views of these heritage assets, but they are existing features and the heritage assets are still largely visible beyond them.
31. There are also a number of mature deciduous trees on both sides of Theobald's Road in the vicinity of the appeal site, which would partly screen these heritage assets during the summer months. However, for much of the year, including when I visited the area, the tree's leaves have fallen and the heritage assets are readily visible.
32. In the glossary of the National Planning Policy Framework (December 2024) (the Framework) the setting of a Heritage Asset is defined as *The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.*
33. In this case, for Appeal A, the size, design and position of the PSH would be a visually obtrusive addition to the streetscene that would infringe upon views of these designated heritage assets, causing a low level of less than substantial harm to the significance of their setting.
34. For Appeal B, the size, position and illumination of the two static digital displays, the content of which would change frequently, would also appear visually incongruous and would adversely affect visual amenity in the streetscene.
35. For Appeal A, with reference to paragraph 215 of the Framework, less than substantial harm to a designated heritage asset should be weighed against the

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<sup>6</sup> List Entry Number: 1379092

<sup>7</sup> List Entry Number: 1378787

public benefits of the proposal. The proposed PSH would offer a range of public benefits as detailed in the appellant's Design, Management & Operational Statement. I have considered all of the stated benefits which include a defibrillator, free device charging, free wi-fi, free telephone calls and public information messaging capabilities. I also note the Government's support for telecommunications infrastructure in Chapter 10 of the Framework.

36. However, Paragraph 212 of the Framework requires that great weight be given to the conservation of a designated heritage asset, and the more important the asset, the greater the weight should be. In this case, I am not satisfied that the less than substantial harm that would be caused to the settings of the GII\* listed Central St. Martin's College of Art and Design, the GII listed Kingsway Tram Subway, Victoria House, Avenue Chambers and Nos 25 – 35 and 35A Southampton Row as well as the settings of the KCA and BCA would be outweighed by the public benefits of the proposed PSH.
37. For these reasons, the proposed PSH (Appeal A) would adversely affect the significance of designated heritage assets in the area. It would, therefore, conflict with Policies D1 (design) and D2 (heritage) of the Camden Local Plan 2017 (CLP), and with the Framework in this regard.
38. Similarly, the proposed advertisements (Appeal B) on the PSH would detract from visual amenity and so would conflict with development plan policies D1 and D4 (advertisements) of the CLP which, amongst other things, seek to protect visual amenity and so are material.

#### *Pedestrian Movement*

39. The appeal site is located on an area of footway on Theobald's Road, near to the busy intersection of vehicular and pedestrian traffic at Southampton Row to the southwest; the controlled pedestrian crossing of Theobald's Road to the south; and, a short distance from the junction with Old Gloucester Street to the northeast. Tactile paving and a dropped crossing are located on the footway by Old Gloucester Street.
40. The proposal would be positioned close to metal railings by the kerb and a short distance to the east of a mature tree on the footway. The positioning of the PSH is said to be similar to that of the previously approved kiosk. However, no substantive evidence has been provided to show this is the case.
41. From the evidence and my observations on site, the proposal would be located to the south of the entrance to the NYX Hotel, which is marked by two moveable poles on the footway to which ropes are attached, and an entrance mat. Together with the railings by Old Gloucester Street, this serves to narrow the pedestrian route along the footway in the vicinity of the proposed PSH.
42. The Council makes reference to an approval for tables and chairs in the footway in front of the NYX hotel, which would extend some 3.2 metres from the front elevation of that building and was approved in 2024<sup>8</sup>. I am not fully familiar with that proposal, but it would seem to project into the pedestrian desire line along the footway much more so than the PSH would and yet was considered acceptable by the Council. Nevertheless, whilst not present during my site visit, it is an approved

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<sup>8</sup> LPA Ref. 2024/3678/PVL

development and I must consider it in assessing the effect of the PSH on pedestrian movement.

43. Whilst not clearly shown on the submitted drawings, I consider that the touchpad screen, the emergency button and the defibrillator on the PSH would be located on the northern side elevation closest to the hotel, rather than on the much more restricted southern side elevation near to the railings. This would mean that people using the touchscreen would be positioned to the north of the PSH and so within the pedestrian desire line on the footway between Old Gloucester Street and Southampton Row.
44. Consequently, the position of the proposed PSH and the people using it would impede pedestrian movement along the footway. Given the existing obstructions in the footway, this is likely to result in increased pedestrian congestion in this busy area during peak periods.
45. For these reasons, the proposed PSH (Appeal A) would adversely affect pedestrian movement along the footway on the northern side of Theobald's Road. It would, therefore, conflict with Policies G1 (delivery and location of growth), A1 (managing the impact of development), C6 (access for all) and T1 (prioritising walking, cycling and public transport) of the CLP.

#### *Public Safety*

46. The PSH would include monitors to record various air pollutants, a defibrillator to be used where someone is suffering a cardiac arrest and Nasal Naloxone to respond to someone having an opioid overdose. A webcam and an emergency services call button and public information displays would also be features of the device.
47. However, I note the comments of the Metropolitan Police which, amongst other things, identify the site to be within a high crime area; that the PSH could be used to conceal perpetrators of crime particularly late at night; could attract anti-social behaviour (ASB) and facilitate illegal drug dealing; that details for the sharing of information with the emergency services and the full functionality of the PSH were not known; and that the supply of Nasal Naloxone is by prescription only.
48. The use of a defibrillator and Nasal Naloxone could potentially save lives. However, to do so, their use would need to be undertaken by a suitably qualified and experienced person. Incorrect or inappropriate use is very likely to be harmful, and it is not clear how it would be ensured that only suitably qualified or experienced people would use the defibrillator or administer Nasal Naloxone.
49. Whilst I note that PSH's have been used in Belfast over a period of five years, it is not clear that there has been adequate engagement with the emergency services in London so far. Furthermore, I do not know the details of the locations of the PSHs in Belfast or the views of the Police in relation to them, whereas the views of the Metropolitan Police are to object to the proposal.
50. The PSH would be located near to the carriageway, close to the junction of Old Gloucester Street and Theobald's Road and close to a controlled pedestrian crossing on Theobald's Road. The PSH would include two digital advertisement displays located some 0.54 metres above the ground. Whilst the displays would be static, they would change frequently.

51. Motorists need to concentrate at all times, to protect themselves and other road users, and particularly near to junctions and pedestrian crossings. Due to the proposed luminance levels and the proximity and positioning of the changing displays near to the carriageway, I consider it very likely that they would be distracting to the drivers of vehicles travelling south on Old Gloucester Street and northeast along Theobald's Road. This would lead to an unacceptable increase in the likelihood of an accident occurring.
52. Whilst elements of the proposal could be beneficial to public safety, overall, I am satisfied that the harm, including as identified by the Police, and in relation to highways, would outweigh the benefits.
53. For these reasons, the proposed PSH (Appeal A) would adversely affect public safety. Consequently, it would conflict with Policies G1, A1, C6, T1 and C5 (safety and security) of the CLP, and with the Framework, in this regard.
54. Similarly, the proposed displays on the PSH (Appeal B) would detract from public safety and so would conflict with these development plan policies which, amongst other things, seek to protect public safety and so are material.

### **Other Matters**

55. The appellant's Statement of Case also concerns appeals at five other locations. I am not familiar with the other locations, and I have determined the appeals before me on their individual merits.
56. For Appeal A, the Council is concerned that without a s106 planning obligation the PSH would not be adequately maintained. No such obligation has been provided. The nature of the PSH, and that it relies upon revenue from advertisements to fund its operation, means that there would be a clear incentive for the appellant to maintain the PSH, and I note their intended approach to maintenance in the evidence.
57. However, circumstances may change over time and there is currently no mechanism to ensure that the PSH would be maintained in perpetuity. The benefits of the proposal would be reduced if the PSH no longer functioned as intended, and it would remain a visually harmful feature within the streetscene and within the setting of designated heritage assets.
58. However, as I have found that the proposal would cause unacceptable harm when operating as intended, an obligation to ensure ongoing maintenance would not be necessary to make the proposal acceptable in planning terms, with reference to Regulation 122 (2) of the Community Infrastructure Levy (CIL) Regulations 2010.

### **Conclusion**

59. For the reasons given above, I conclude that Appeal A is dismissed, and Appeal B is dismissed.

*Andrew Parkin*

INSPECTOR