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## Appeal Decisions

Site visit made on 11 October 2022

**by Colin Cresswell BSc (Hons) MA MBA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 2 November 2022**

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### **Appeal A- Ref: APP/X5210/W/22/3297273**

#### **Pavement o/s 39 Tottenham Court Road, Tottenham Court Road, London W1T 2AR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr James Browne (BT Telecommunications Plc) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2021/3912/P, dated 29 July 2021, was refused by notice dated 3 March 2022.
  - The development proposed is installation of 1no.new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosk(s).
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### **Appeal B- Ref: APP/X5210/W/22/3297276**

#### **Pavement o/s 39 Tottenham Court Road, Tottenham Court Road, London W1T 2AR**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr James Browne (BT Telecommunications Plc) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2021/4354/A, dated 29 July 2021, was refused by notice dated 3 March 2022.
  - The advertisement proposed is installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosk(s).
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### **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Procedural Matters**

3. I refer to the different cases as Appeal A and Appeal B. I have dealt with each appeal on its individual merits, but to avoid duplication both proposals are considered together in this decision.
4. Both appeals concern the same proposal for a kiosk. Appeal A seeks planning permission for the kiosk itself, whereas Appeal B seeks advertisement consent for the advertising display which would be attached to the kiosk.

## **Main Issues**

5. The main issues in Appeal A are:

- the effect on the proposal on the character and appearance of the area, including the setting of designated heritage assets.
- the effect of the proposal on pedestrian movement.
- the effect of the proposal on crime.

The main issues in Appeal B are:

- the effect of the proposal on visual amenity.
- the effect of the proposal on public safety.

## **Reasons**

### **Appeal A**

#### *Character and appearance*

6. This part of Tottenham Court Road is characterised by shops, offices and commercial premises and is a particularly busy area for traffic and pedestrians. Although the pavement is relatively wide and open at this point, it contains various items of street furniture which give it a somewhat cluttered appearance. Alongside rows of trees on the pavement, there are also a number of existing telephone boxes, metal street cabinets, litter bins and a cabin containing a mobile phone repair business.
7. Buildings in the area of a generally mixed appearance. The proposed kiosk would be situated outside a contemporary style glass fronted building with HSBC, Superdrug and Natwest occupying the ground floors. Other parts of the street are dominated by older style properties of high architectural merit. Indeed, the site is immediately adjacent to both the Charlotte Street and Bloomsbury Conservation Areas as well as being close to some listed buildings. This includes 19 Percy Street, a Grade II listed building which the kiosk would directly face on the corner of the street. However, due to the commercial nature of Tottenham Court Road and the relatively small size of the kiosk in the context of the wider street scene, it seems to me that the proposal would not harm the setting of any designated heritage assets. As such, there would be no conflict with Policy D2 of the Local Plan<sup>1</sup>, which aims to protect the qualities of listed buildings and Conservation Areas.
8. While the proposed kiosk would not interfere with the way in which the surrounding buildings are viewed, it would nevertheless be a very conspicuous feature on the pavement, appearing more as a large, flat panel rather than a traditional phone box. Not only would it be notably taller and wider than the existing kiosks, it would also present face-on to those walking along this part of the street. Its solid, angular profile combined with its height would make the kiosk appear far more conspicuous than the existing phone boxes despite its slim design and relatively small footprint.
9. That said, the proposal would involve the removal of existing BT kiosks which would help to reduce the overall quantity of street furniture on this part of the

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<sup>1</sup> Camden Local Plan 2017

- pavement. I am also conscious that the existing BT kiosks are dated and in a poor state of repair, with some being covered in graffiti and showing signs of physical damage. Refreshing the old kiosks with a more modern installation therefore has some potential to create a cleaner and more visually pleasing street scene than exists at present.
10. However, the Police say that the area is prone to criminal activity and the main reason why the existing BT kiosks are something of an eyesore is that they have been vandalised and poorly maintained. If the proposed new kiosk were to be vandalised or to fall into similar disrepair, it would become even more of an eyesore than the existing kiosks due to its increased height, width, and general prominence. Based on my own observations of the site and the written evidence, it seems highly likely that it would be prone to vandalism. I have considered the BT Product Statement, which indicates that the kiosk would be regularly cleaned and checked for damage. Although I have no reason to doubt that this is the current intention, circumstances can change over time and there is no legal mechanism in place to ensure that an appropriate maintenance plan is implemented in perpetuity.
  11. On this basis, I am unable to determine that the proposal would have a positive effect on the street scene in this location. Indeed, without a mechanism in place to ensure that the new kiosk is properly maintained, it is probable that it would fall into a similar level of disrepair as the existing kiosks. It would then become an unsightly feature which would significantly distract from the quality of the local street scene. This adds to my concerns about the visual prominence of the structure. In reaching this decision, I am mindful that the proposed kiosk would become a permanent feature in a particularly busy part of Tottenham Court Road where it would be highly visible.
  12. I therefore conclude that the proposal would have a harmful effect on the character and appearance of the area. There would be conflict with Policies G1 and D1 of the Local Plan, which aim to maintain high standards of design. The proposal would also conflict with the objective in Part 3 of the Fitzrovia Area Action Plan<sup>2</sup> to enhance the interaction between streets and the ground floors of buildings by removing visual clutter and encouraging high quality design. Although the proposal would help to reduce visual clutter by removing the existing BT kiosks and replacing them with a single unit, it would not maintain high standards of design for the reasons set out above.

#### *Pedestrian movement*

13. The proposed kiosk would inevitably obstruct some lines of sight along the pavement due to its height, width, and lack of visual permeability. However, the pavement is relatively wide at this point and, in practice, pedestrians would be able to see adequately in either direction with plenty of room to manoeuvre. While the kiosk would be near a pedestrian crossing, it would be seen in its relatively slim side-profile from here and so would be unlikely to distract those crossing the road or otherwise cause a significant obstruction. Furthermore, the removal of the existing BT kiosks would result in a net reduction of street furniture, enabling a more open pavement overall.
14. This leads me to conclude that the proposal would have an acceptable effect on pedestrian movement. There would be no conflict with Policy T1 of the Local

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<sup>2</sup> Fitzrovia Area Action Plan, adopted March 2014

Plan which, amongst other things, aims to promote walking. Nor would there be any conflict with Policy C6 which promotes accessible development.

### *Crime*

15. I understand that there are incidents of street crime and anti-social behaviour in this area and have considered the comments raised by the Police with regard to this matter. However, based on the evidence provided, I am not convinced that the proposed kiosk is likely to worsen the situation. Although it would be possible for people to loiter around the new kiosk or hide behind it, this is also the case with the existing BT kiosks. The existing kiosks are not fully transparent as they have a solid panel on the back and much of the glass is obscured by advertising panels. In fact, it seems to me that the removal of the existing BT kiosks would give fewer opportunities for people to hide as they cover a greater area of the pavement than the proposed kiosk would. While the new kiosk would not be enclosed, I saw on my visit that some of the existing kiosks lack doors and so are at least partially open to the pavement. Hence it seems unlikely that the proposal would increase opportunities for bag snatching or other crime over and above the existing situation.
16. I therefore conclude that the proposal would have an acceptable effect on crime. There would be no conflict with Policy C5 of the Local Plan which promotes safer streets and public areas.

### *Other matters*

17. Apart from a public telephone, the proposed new kiosk would incorporate other features including device charging, public Wi-Fi and wayfinding. However, relatively little information has been provided to indicate the need for such facilities in this specific location. In the absence of such evidence, I am unable to determine that these benefits would clearly outweigh the harm to character and appearance that I have identified above.
18. My attention has been drawn to a number of planning appeals concerning kiosks in other locations. While I appreciate the similarities between those appeals and the current case in terms of kiosk design, there are nonetheless marked differences between the characteristics of each individual site and proposal. As such, these appeals do not establish a particularly convincing precedent for the current case.

## **Appeal B**

### *Visual amenity*

19. Although the Council has quoted various development plan policies in its reasons for refusal in Appeal B, the Regulations<sup>3</sup> limit my considerations to issues of public safety and amenity. Nonetheless, it seems to me that many of the planning concerns which were relevant in Appeal A (for the kiosk) are equally relevant in Appeal B (for the advertising).
20. The proposed advertising display would be broadly compatible with the commercial nature of street frontage in this location and the illuminated shop fronts. However, it would be a very prominent feature on the pavement due to its size and positioning. For similar reasons to those already covered under

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<sup>3</sup> Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Appeal A, the display would be unsightly as it would be highly vulnerable to being vandalised or falling into long-term disrepair. I therefore conclude on this issue that the proposal would harm visual amenity.

### *Public Safety*

21. The proposed advertising display would be visible to drivers approaching the pedestrian crossing. However, I do not consider that it would compromise highway safety. There is already a prevalence of shopfront advertising and illuminated signage here and so drivers are unlikely to pay undue attention to an additional advertising display. Planning conditions could also be imposed to control brightness and the frequency at which different adverts are displayed. This would further reduce the chances of distraction. The proposal would have little impact on those crossing the road as the display would be seen from a side-on perspective and so would not be fully visible. I therefore conclude that the proposal would have an acceptable effect on public safety.

### **Conclusion**

#### **Appeal A**

22. The proposal would have an acceptable effect on pedestrian movement and crime. However, this does not outweigh the harm to character and appearance that has been identified. The appeal is therefore dismissed.

#### **Appeal B**

23. The proposal would be acceptable in terms of public safety but this does not outweigh the harmful effect it would have on visual amenity. The appeal is therefore dismissed.

*C Cresswell*

INSPECTOR