



Appeal Decisions

Site visit made on 6 December 2022

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2023

Appeal A Ref: APP/X5210/W/22/3291843

58 Pavement outside No. Kingsway, Holborn and Covent Garden, London WC2B 6EP

- 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 Martin Stephens JCDecaux against the decision of the Council of the London Borough of Camden.
 - The application Ref 2021/2116/P, dated 30 April 2021, was refused by notice dated 21 December 2021.
 - The development proposed is described as 'one of 15 sites across the Borough for which we seek planning permission and advertisement consent to replace the current enclosed telephone kiosk with an open access Communication Hub as illustrated in the attached document JCD 4.'
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Appeal B Ref: APP/X5210/H/22/3291844

58 Pavement outside No. Kingsway, Holborn and Covent Garden, London WC2B 6EP

- 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 Martin Stephens JCDecaux against the decision of the Council of the London Borough of Camden.
 - The application Ref 2021/3155/A, dated 30 April 2021, was refused by notice dated 21 December 2021.
 - The advertisement proposed is described as 'one of 15 sites across the Borough for which we seek planning permission and advertisement consent to replace the current enclosed telephone kiosk with an open access Communication Hub as illustrated in the attached document JCD 4.'
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Decision

1. Appeal A and B are dismissed.

Preliminary Matters

2. Appeal A relates to a refusal for planning permission for the hub, and Appeal B is in respect to the Council's refusal to grant consent for the advertisement. I have considered each proposal on its individual merits. To avoid duplication, I have dealt with the two schemes together, except where otherwise indicated.
3. As the proposal is in a conservation area and near to listed buildings, I have in relation to Appeal A, been mindful of the duties set out in Sections 66(1) and 72(1) and of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires in respect to a listed building or its setting, special regard to the

desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

4. In respect of Appeal B, powers under the Regulations¹ to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. While not in themselves decisive in Appeal B, I have, where relevant, taken into account policies cited in this appeal as a material consideration.

Main Issues

5. The main issues are as follows:

For Appeal A and B:

- The effect of the proposals on the character or appearance and visual amenity of the area, having regard to the Kingsway Conservation Area and the settings of nearby listed buildings; and
- The effect of the proposals on highway safety and pedestrian flows in the area.

For Appeal A:

- Whether the proposal would increase opportunities for crime and anti-social behaviour in the area.

Reasons

Heritage Assets and Visual Amenity

6. The appeal site is located close to the junction of Kingsway and Remnant Street. Kingsway is a tightly drawn conservation area (CA) that is principally recognised as an outstanding example of early 20th Century architecture on a comprehensive scale. While buildings along the main street have an individual architectural quality, its built form as a whole is cohesive in terms of scale and materials, with a distinctive boulevard character that remains largely intact. Its street pattern also allows glimpses of the varied historic hinterland to its rear, which near the appeal site includes the listed Lincoln's Inn Fields.
7. A number of buildings on Kingsway are also listed. These includes, near the appeal site, the Grade II Kingsway Chambers which is an attractive Arts and Crafts inspired stone building, centrally located in the short block of buildings to which No 58 forms the end building. There is also the Grade II Church of St Anselm and St Cecilia north of Remnant Street, and Grade II listed K2 kiosks to the south of the appeal site.
8. The boulevard character is evident in the immediate vicinity of the appeal site which is located at the edge of the wide, relatively uncluttered, tree-lined pavement with a backdrop of No 58 and neighbouring buildings. These buildings are good examples of the local building tradition². With these features

¹ Ref: The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

² As identified in Conservation Area Statement 16 Kingsway

the appeal site forms part of the homogenous and attractive historic street scene which contributes to the significance of the CA.

9. With the exception of the existing kiosk at the appeal site, street furniture in this area is largely limited to streetlamps and traffic signals. Signs and advertising are also limited in the area and mainly comprise non-digital fascia style signs above commercial units. I saw few examples of large scale advertisements, with the poster style advertisement at the kiosk at the appeal site a notable exception.
10. For Appeal A, paragraph 197 of the National Planning Policy Framework (the Framework), sets out matters which should be taken into account including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
11. In respect of Appeal B, while amenity is not defined exhaustively in the Regulations, it indicates that relevant factors include the general characteristic of the locality, including the presence of any features of historic, architectural, cultural or similar interest. The Framework also highlights that the quality and character of places can suffer when advertisements are poorly sited and designed.
12. Within this context, the proposed hub would replace the existing part-glazed kiosk with a monolithic style structure. It would have a smaller footprint than the existing kiosk. But it would be a sizeable, block like form, with the rear face substantially covered by a digital style advertising panel. With these features, the replacement structure would be out of keeping with the relatively subtle forms of street furniture and understated verdant commercial character which prevails in this locality.
13. The proposed hub would be located at the same place as the existing kiosk, and the kiosk would have to be removed to allow the installation of the hub. In this respect it would not add to clutter in the street. That said, while the advertisement would only be on one side, similar to the existing kiosk, the new structure would display a style of advertising, which would include changing images, that would be distinctly different to non-digital signs that feature in this area. This stridently contemporary style of the advertising would fail to assimilate with the existing forms of advertising and signage surrounding the appeal site. In this regard the proposal would not be sensitive to the relatively consistent historic character which defines this tightly drawn CA.
14. As a commercial centre, Kingsway is a well-lit and busy street. However, the nature of lighting from streetlamps, traffic lights, illuminated signage and lighting in surrounding units is noticeably different to the sizeable, changing digital display at street level, that would be positioned at a prominent section of pavement, and specially designed to attract attention.
15. The incongruous structure would be separated from the listed K2 kiosks by a number of the street trees. It would also be set several metres south of the junction with Remnant Street so that it would not encroach on the vistas along this street or the setting of the listed Church to the north. However, the advertising panel, in particular, would encroach significantly into views of the buildings that form the backdrop of the appeal site, and these include the listed Kingsway Chambers. Its presence would adversely alter the character of

Kingsway in this immediate area and would encroach into the setting of this listed building. In turn this would harmfully erode how the attractive boulevard, including the listed Kingsway Chambers, is appreciated and experienced, and this would be harmful to the special interest in this part of the CA. In this sensitive location it would diminish the consistent character of the historic street scene and would therefore fail to preserve the character or appearance of the area.

16. Conditions covering matters of speed of image change and levels of light during daylight hours and night-time periods³ and that would require the panel to be switched off for a period, would not negate the visually incongruous aspects of the proposal described above. Therefore, these measures would not address the identified harm to the visual amenity of the area.

Heritage Balance

17. The Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
18. For the reasons outlined the harmful visual impacts resulting from the proposal would fail to preserve the setting of the listed building, and the character or appearance of the CA. This impact would be limited and localised and the harm caused to the significance of the CA as a whole is less than substantial. Relevant to Appeal A, in accordance with the Framework this harm needs to be weighed against the public benefits of the proposal
19. The proposal would upgrade the existing payphone with functions including Wi- Fi, device charging, free calls to landlines and wayfinding facilities. The hub would be powered by renewable energy and would minimise waste. It is designed for accessibility, would include a defibrillator and could be used for emergency messaging. It would provide 4G and 5G services, consistent with the Framework requirements regarding supporting high quality communications. It could also gather environmental data and would include features to prevent antisocial behaviour.
20. A plan is provided to ensure the hub is maintained appropriately. Also, details making good the pavement following installation have been submitted. That said, these are reasonably to be expected and do not weigh in favour of the proposal.
21. The proposal is part of an upgrade and rationalisation of existing monofunctional equipment in the wider area, and the hub would be smaller than the existing kiosk. Limited details about this wider scheme are presented, which restricts the consideration of this matter in this appeal. The appellant's suggested condition to ensure the removal of telephone boxes in other locations is noted, but such a condition is unlikely to satisfy the tests applicable to planning conditions.
22. Also, while the installation of the proposed hub would entail the removal of the existing structure, the new hub would be visually more harmful than the kiosk it would replace as established above. Therefore, the removal of the existing structure would not amount to a benefit in this case.

³ As recommended by the Institute of Lighting Professionals

23. The advertisement would contribute to the national and local economy which could include revenue for the Council⁴. Advertising time would also be made available for public messaging and to charities. These matters are outside the provision of the Regulations for Appeal B, but even when considered in respect of Appeal A, this would be a limited benefit given that this is one unit.
24. The public benefits outlined above would be modest, and they do not outweigh the great weight given to the conservation of the CA, and the less than substantial harm to its significance which I have identified. Therefore, the harm to the designated heritage assets would not have a clear and convincing justification, as required by paragraph 200 of the Framework.
25. Therefore, in Appeal A, I therefore find that the proposal would not preserve or enhance the character or appearance of the area, having regard to the Kingsway Conservation Area and the setting of nearby listed buildings. It would be contrary to Policies D1 and D2 of the Camden Local Plan (Local Plan). Together, these collectively seek high quality design in development and to preserve Camden's rich and diverse heritage assets and their settings.

Visual Amenity Conclusion

26. In Appeal B, for the reasons outlined above I find that the advertisement would harm the visual amenity of the area. Although not determinative, in addition to the above Local Plan policies, the proposal would also be contrary to Policy D4 of the Local Plan, in that it would contribute to an unsightly proliferation of signage in the area.

Highway Safety

27. Kingsway is an apparently heavily trafficked road, lined by pavements busy with pedestrians. The appeal site is also located close to a signalised crossroads with pedestrian crossings. This combination of factors requires motorists to have particular focus in order to avoid conflict with other road users in this busy area.
28. Similar to the existing advertisement on site, the new advertisement would be orientated towards motorists travelling south along Kingsway. This is a straight stretch of road, and this would allow motorists approaching from this direction time to register the new form of advertising at the site. However, I saw that this would not be the case for motorists entering Kingsway from Great Queen Street from the east, to travel south, and crossing the path of traffic exiting Remnant Street.
29. The appellant indicates that Transport for London has raised no concerns regarding public safety. The appellant also asserts that there is no evidence to suggest that this kind of advertising is harmful to the safety of pedestrians.
30. However, Planning Practice Guidance identifies that the types of advertisements which may cause harm to road users which include internally illuminated signs with frequent changes of display. It also states that advertisements at points where drivers need to take more care are more likely to affect public safety, and this includes pedestrian crossings.

⁴ Ref: Camden's Small Format Digital Advertising Specification

31. Within this context, the proposed style of the advertising would be considerably more distracting than the existing poster style non-digital format. This new form of advertising in this location would be in a position where motorists crossing the path of other road users would not have an opportunity to register the advertisement in advance, when approaching the crossroads from the east. As a result, the incongruent advertisement would distract motorists' attention when they require particular focus on this busy carriageway to avoid conflict with other road users. In turn this would increase the risk of incidents with other road users, including cyclists and pedestrians, in the area
32. For both Appeal A and B, I therefore find that the proposals would have a harmful effect on highway safety in the area. Although not determinative in the case of Appeal B, it would conflict with Policies G1, A1, C6 and T1 of the Local Plan. These collectively seek, amongst other matters, to resist development that fails to adequately assess and address transport impacts.

Pedestrian Flows

33. The proposal would replace an existing structure and would therefore not add to clutter on this part of the pavement. The proposed hub would be located at the edge of the footway and would align with the street trees and streetlamps that line the pavement. As such, it would be located in the established street furniture zone in this area. Moreover, the hub would be slightly smaller than the existing kiosk and the width of unobstructed footway alongside it would be significantly wider than that recommended in both the Council's and Transport for London's guidance for busy pedestrian streets and high flow locations.⁵
34. Therefore, although this street has a high pedestrian flow, with these features, the new hub would not present any greater hinderance to disabled people nor would it create an additional obstruction for those who are visually impaired. Also, the new hub would be similar in height to the existing structure and stepped in a similar distance from the edge of the pavement such that it would not noticeably alter or restrict pedestrians' sightlines of the busy footway or carriageway. For these reasons, the proposal would not have an unacceptable impact on the existing movement of pedestrians, nor would it add to pedestrian congestion in this area. It would therefore not be detrimental to the promotion of walking in this regard.
35. The Council has highlighted appeal decisions, where this matter was at issue. However, these relate to sites in Euston Road and at Kings Cross which are a considerable distance from the appeal site, and conditions at those sites are not directly comparable to this. These have not altered my assessment on this issue for this reason.
36. For both Appeal A and B, I therefore find that the proposals would not have a harmful effect on pedestrian flows in the area. Although not determinative in the case of Appeal B, it would not conflict in this regard to Policies G1, D4, A1, C6 and T1 of the Local Plan. Together, these collectively seek, amongst other things, to provide high quality footpaths and pavements that are wide enough for the number of people expected to use them.

⁵ Refs: Camden Streetscape Design Manual and Transport for London Pedestrian Comfort Guidance Appendix B

37. The proposals would also generally accord with the advice set out in Camden Planning Guidance Transport and Transport for London Streetscape Guidance in respect to this matter.

Crime and Anti-social Behaviour

38. The Metropolitan Police highlight the common theme in crime statistics and the location of kiosks around Camden. However, the proposed hub would include adaptations and be supported by a management plan, which has been devised in consultation with a number of police forces. This addresses many of the issues raised by the Police particularly regarding the potential for the misuse of free calls and other criminal and anti-social behaviour.
39. As the hub would be a replacement structure, smaller than the existing kiosk, it would not add to clutter in the area, and in this regard, it would be consistent with advice on this matter set out in Camden Planning Guidance on Design, which seeks to minimise the size of kiosks to decrease opportunities for crime and anti-social behaviour.
40. The existing kiosk includes an advertising panel which screens people using the kiosk, to the north. This proposal would not significantly alter this existing arrangement. Moreover, the pavement in this area is relatively wide and open which affords it reasonable natural surveillance. The design of the hub would also be relatively open, and this would ensure that users of the hub would not be overly concealed. This would also dissuade offenders from loitering at the site.
41. Also, although more open than the existing structure, the hub would not include shelves where items could be placed. This would deter opportunist street crime, including from the carriageway. Taking account of this factor and the statement from the police that the adaptations to the proposed hub are positive from a crime prevention perspective, the evidence before me does not demonstrate that the proposal would lead to a significant increase in crime in this area.
42. The Council has highlighted appeal decisions on a site in Tottenham Court Road where anti-social behaviour was an issue. However, this is a different location, a considerable distance from the appeal site and the design of that kiosk differed from this proposal. As such, those decisions are not directly comparable to the current appeal case.
43. In respect to Appeal A, I therefore conclude that the proposal would not increase opportunities for crime and anti-social behaviour in the area. It would not be contrary to Policy C5 of the Local Plan. This requires, amongst other things, that development is designed to minimise crime and antisocial behaviour.

Other Matters

44. The appellant cites a number of other proposals granted permission and consent on the Tottenham Court Road and New Compton Street. However, these roads are a considerable distance from the appeal site, and their character is distinctly different to the character of this area. As such, these decisions do not alter my findings.

45. As clarified in paragraph 118 of the Framework, local planning authorities should not question the need for an electronic communications system. The Council's comments on this matter have therefore not been determinative in my deliberations. Also, while I appreciate the use of such hubs in other cities, it is not decisively demonstrated that this harmful proposal would be the only means to address the appellant's stated objectives.
46. In respect of Appeal A, the Council state the absence of a legal agreement, to secure the removal of the existing kiosk and others in the vicinity and a maintenance plan, as a reason for refusing permission. As I am dismissing the appeal on other grounds under various identified main issues, it is not necessary for me to address this further in this instance.

Conclusion

47. In Appeal A, the proposal would harm the character and appearance of the area, including designated heritage assets, and highway safety. It would be contrary to the development plan and the Framework, and there are no other considerations which outweigh this finding. Accordingly, for the reasons stated above and having regard to the development plan as a whole, Appeal A fails.
48. Regarding Appeal B, the proposal would harm visual amenity and prejudice public safety on the highway. Accordingly, for the reasons given above Appeal B is also fails.

A J Sutton

INSPECTOR