



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: 25 January 2023

Appeal A Ref: APP/X5210/W/22/3291831

Pavement outside No. 72 Russell Square, Holborn and Covent Garden, London WC1B 5BA

- 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 2021/2113/P, dated 30 April 2021, was refused by notice dated 2 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/22/3291834

Pavement outside No. 72 Russell Square, Holborn and Covent Garden, London WC1B 5BA

- 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 2021/3145/A, dated 30 April 2021 was refused by notice dated 2 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 proposed 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 close 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, with regards to the Bloomsbury Conservation Area and the settings of nearby listed buildings;
- For Appeal A - Whether the proposal would increase opportunities for crime and anti-social behaviour in the area; and
- For Appeal A and B - The effect of the proposals on highway safety and pedestrian flows in the area.

Reasons

Heritage Assets and Visual Amenity

6. The appeal site is located near a prominent corner, opposite Russell Square and the Russell Hotel. The Square is Grade II listed in the Register of Historic Parks and Gardens and is the largest in the Bloomsbury Conservation Area (CA). It is a green open space, bounded by cast iron metal railings, mature trees and vegetation which filters views of the 18th and 19th century terrace properties and the Grade II* listed Russell Hotel which surround the square. The Square also provides a pleasant contrast with the busy road to the east. The three K6 kiosks by the railings at the northeast entrance to the square are also Grade II listed. The Russell Hotel, just north of the appeal site, is an imposing, eight storey, ornate red brick building with corner turrets. These prominent heritage assets help form the varied, historic street scene, and this contributes strongly to the historic interest and significance of this part of the CA.
7. The east side of Russell Square, which provides the backdrop of the appeal site, comprises mainly 20th Century additions. Although these buildings were constructed in the 1960's, their principally concrete facades appear a neutral feature in the CA. The appeal site is on the edge of a wide, relatively uncluttered pavement and this allows the appreciation of the historic interest in the area, particularly Russell Square and the Russell Hotel.
8. Street furniture near the appeal site is minimal, and is generally limited to elegant streetlamps, planters and street trees. Advertising in the area is also

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

limited to mainly to fascia signs above commercial units. There are few examples of large advertisements in the immediate vicinity of the appeal site with the exception being the panel on the existing kiosk at the site, however this is a poster style advertisement. Therefore, although the area is a mix of commercial and residential properties, fronting onto a busy road, street furniture and advertising are relatively low-key and sensitive to the surrounding character this area.

9. Relevant to 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.
10. 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. Planning Practice Guidance provides similar advice on this matter, with the Framework highlighting that the quality and character of places can suffer when advertisements are poorly sited and designed.
11. Within this context, the proposal would replace the part-glazed existing kiosk with a solid, monolithic style hub. The hub would have a smaller footprint than the existing kiosk. But it would be a sizeable, block like form, with one face of the hub mostly dark grey and the other face dominated by a large digital style advertising panel. With the above features, the replacement structure would be at odds with the surrounding relatively discreet forms of street furniture and would not be sensitive to the varied historic character of the area.
12. 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, the hub 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 solid form 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. The strikingly different appearance of the advertising panel would fail to assimilate with the existing low-key forms of advertising and signage surrounding the appeal site.
13. The appeal site is in a well-lit street in a busy mixed commercial area. However, the nature of lighting from streetlamps, traffic lights, illuminated signage and lighting in surrounding commercial units is noticeably different to a large, changing digital display at street level, that would be positioned at a prominent section of pavement, and specially designed to attract attention.
14. The advertisement would visually compete with surrounding positive features in the locality as follow. In particular, it would intrude on vistas of the listed Square to the south and the historic properties that surround it at that aspect. It would also be seen in glimpsed views from the Square through the railings and would be visible when leaving the Square at the northeast, near the listed K6 kiosks, when looking towards the Grade II* Hotel.
15. As an incongruous structure, the proposed hub's presence would adversely alter the existing neutrality of the appeal site in this wider historic setting, and this would harmfully erode how the special interest and the historic landmarks

in this part of the CA are experienced and appreciated. At this prominent location it would be a detracting feature in the street scene and in this regard would fail to preserve the character or appearance of the area.

16. Conditions covering matters such as speed of image change and levels of light for daylight and night-time periods,² and that would require the panel to be switched off for a period, would not negate the intrusive 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 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 above, the proposal would have an adverse effect on the CA's historic character, and significance, including the setting of the listed Russell Hotel and Russell Square. The harmful visual impacts resulting from the proposal would fail to preserve the setting of the listed assets, and the character or appearance of the CA. This effect would be localised, and the harm caused to the significance of the CA as a whole would be less than substantial. Relevant to Appeal A, in accordance with paragraph 202 of the Framework, this harm needs to be weighed against the public benefits of the proposal.
19. The proposal would upgrade the existing payphone and would offer Wi-Fi and 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. The maintenance plan for cleaning the hub, and details of pavement remediation are reasonably to be expected and do not weigh in favour of the proposal.
21. This proposal is identified as part of a scheme to rationalise existing single function equipment in the wider area. Limited details about this wider scheme have been submitted 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 this proposed hub would entail the removal of the existing structure, the new hub would be visually more harmful than the kiosk it would replace for the reasons outlined above. Therefore, the removal of the existing structure would not amount to a benefit in this case.
23. The advertisement in the hub would contribute to the national and local economy, which could include revenue for the local authority.³ Advertising time would also be made available for public messaging and to charities. These

² As recommended by the Institute of Lighting Professionals

³ Ref: Campden's Small Format Digital Advertising Specification

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 the scale of development.

24. The public benefits identified 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 find that the proposal would fail to preserve or enhance the character or appearance of the area, with regard to the Bloomsbury Conservation Area and the settings of nearby listed buildings. It would be contrary to Policies D1 and D2 of the Camden Local Plan (Local Plan). Together, these 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.

Crime and Anti-Social Behaviour

27. The Metropolitan Police highlight a 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 the potential for misuse of free calls and other criminal and anti-social behaviour.
28. As the hub would be a replacement structure, smaller than the existing kiosk, it would therefore 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 Design, which seeks to minimise the size of kiosks to decrease opportunities for crime and anti-social behaviour.
29. 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 has a relatively open character which allows reasonable natural surveillance at the site. The design of the hub would also be relatively open. These factors would help ensure that users of the hub would not be overly concealed. This would also discourage offenders from loitering at this site.
30. 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 indicate that the proposal would lead to a significant increase in crime in this area.

31. My attention has been drawn to appeal decisions on a site in Tottenham Court Road where anti-social behaviour was at issue. However, this is a different location, a considerable distance from the appeal site and the design of that kiosk differed from this appeal proposal. As such, those decisions are not directly comparable to the current appeal case.
32. In respect of Appeal A, I therefore find that the proposal would not increase opportunities for crime and anti-social behaviour in the area. It would not be contrary to Policies C5 and D1 of the Local Plan. Together these require among other things, that development is secure and designed to minimise crime and anti-social behaviour, particularly in wards with relatively high levels of crime.

Highway Safety and Pedestrian Flows

33. The proposal would replace an existing kiosk and would be at the front of the footway. This appears to be the zone of the pavement where the few items of street furniture are generally restricted to in this area.
34. The Council contends that the unobstructed width of pavement, near the new hub, would fall short of that advised by Transport for London⁴ and Camden's Streetscape Design Manual, by a small amount. However, although this proposed hub may be larger than those refused permission in other areas in Camden in 2020, the footprint of the new hub would be smaller than the existing structure at this site, and this would provide slightly more space for pedestrians on this footway than is currently the case. Moreover, I observed that the pavement near the existing kiosk was relatively uncluttered and spacious enough for people to pass freely including those in wheelchairs or with prams.
35. Given this combination of factors, the proposal would not have an unacceptable effect on existing pedestrian flows in this busy location. Nor would it present any greater hinderance to disabled people or create an additional obstruction for those that are visually impaired. It would not be detrimental to the promotion of walking in this regard.
36. The proposed 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.
37. The Council highlights that the hub would be orientated differently to the current kiosk. Whereas this may be so for the telephone, this would not be the case for the proposed advertising panel. The advertisement would be principally visible to motorists travelling in a southerly direction. This is a straight stretch of road, with a relatively uncluttered, open character, which allows motorists clear visibility of the highway in the vicinity of the appeal site.
38. There is a signalised junction north of the appeal site and this includes a pedestrian crossing. However, although the proposal would result in a significantly more distracting form of advertising than the existing panel at the site, the road conditions as outlined above, would allow motorists approaching this junction, either from Russell Square or Guilford Street, time to register the advertisement well in advance, so that they would not be unduly distracted by

⁴ Ref: Pedestrian Comfort Guidance for London Appendix B

this feature when approaching the traffic lights and the related pedestrian crossings.

39. Also, principally visible to motorists on the nearside carriageway, it would not distract motorists conducting more complex manoeuvres such as crossing traffic. Consequently, although the carriageway near the appeal site has heavy traffic flows, taking account of the reasonably standard road layout with good visibility near the appeal site and the position of the advertisement, the proposal would not increase the risk of incidents occurring in this location.
40. The Council has drawn my attention to appeal decisions, where these matters were at issue. However, these relate to sites in Euston Road and King's Cross which are a considerable distance from the appeal site, and circumstances at those sites are not directly comparable to this. As such, these have not altered my findings on this issue.
41. For both Appeal A and B, I therefore find that the proposals would not harm highway safety and pedestrian flows in the area. Although not determinative in the case of Appeal B, it would not conflict in these regards with Policies G1, A1, D4, C6 and T1 of the Local Plan. These collectively seek, among other things, to resist development that fails to adequately assess and address transport impacts and fails to provide high quality footpaths and pavements that are wide enough for expected usage.
42. The proposals would also generally accord with the advice set out in Camden Planning Guidance Transport and Transport for London Streetscape Guidance in respect of these matters.

Other Matters

43. The appellant cites a number of other proposals granted permission and consent on the Tottenham Court Road and New Compton Street. However, those sites are a considerable distance from the appeal site and the character and site conditions of those locations are different from the context for the proposal before me. As such, these decisions do not alter my findings.
44. As clarified in paragraph 118 of the Framework, local planning authorities should not question the need for an electronic communications system. 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.
45. In respect of Appeal A, the Council cite the absence of a legal agreement as a reason for refusing permission. As I am dismissing this appeal on other grounds under various identified main issues, it is not necessary to address this matter further in this instance.

Conclusion

46. In Appeal A, the proposal would harm the character and appearance of the area, including designated heritage assets. 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 taken as a whole, Appeal A fails.

47. Regarding Appeal B, the proposal would harm visual amenity. Accordingly, for the reasons given above Appeal B is also dismissed.

A J Sutton

INSPECTOR