



## 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: 26<sup>th</sup> January 2023**

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### **Appeal A Ref: APP/X5210/W/22/3291847**

#### **Outside Media Com, 124 Theobalds Road, London WC1X 8RX**

- 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 for the London Borough of Camden.
  - The application Ref 2021/2115/P, dated 30 April 2021, was refused by notice dated 11 January 2022.
  - The development proposed is Installation of a new phone hub unit following removal of existing kiosk as part of wider proposals to replace Infocus telephone kiosks.
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### **Appeal B Ref: APP/X5210/H/22/3291851**

#### **Outside Media Com, 124 Theobalds Road, London WC1X 8RX**

- 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 for the London Borough of Camden.
  - The application Ref 2021/3151/A, dated 30 April 2021, was refused by notice dated 11 January 2022.
  - The advertisement proposed is Installation of a new phone hub unit following removal of existing kiosk as part of wider proposals to replace Infocus telephone kiosks.
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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. In respect of Appeal B, powers under the Regulations<sup>1</sup> 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.

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

## **Main Issues**

4. The appeal site is close to the boundary of the Bloomsbury Conservation Area (CA). However, I observed that the site is some distance from the junction of Southampton Row such that it does not encroach into views of the grand historic buildings that line that road. Also, large office blocks visually separate it from the Red Lion Square Gardens to the south, and the historic interest on the secondary streets north of Theobalds Road that contributes to the significance of the CA. For these reasons I am content that the proposal would not affect this designated heritage asset.

5. The main issues in this case are therefore:

For Appeal A and B:

- The effect of the proposals on the character and appearance and visual amenity of the area; 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**

### *Character and Appearance*

6. The appeal site is on part of Theobalds Road which principally comprises relatively modern office buildings. It is on a wide corner of pavement which fronts a stone clad office block that has a simple yet elegant form. The style of the buildings in the wider area vary in detail. However, their forms are generally low-rise, providing consistency along this stretch of road. While this area is predominantly for business use, signage on these buildings is generally discreet, contributing to the low-key commercial character of this area.
7. Street furniture is limited in the area, and the wide uncluttered pavements with intermittent street trees are a positive feature that contributes to the appearance of this relatively modern infill area. Also, advertising in this area, is minimal, with the notable exception of the poster-style panel on the existing kiosk and the digital style advertising panel just north of the appeal site. Although the area immediate to the appeal site retains many of the positive features outlined above, this concentration of advertising at street level is relatively unusual and not characteristic of the wider area.
8. The proposal would replace the existing kiosk with a narrow, monolithic style hub. Although of a smaller footprint than the existing structure, it would be a sizeable, block like form, with one face of the hub dominated by a large digital style advertising panel.
9. The new hub would be located at the same place as the existing kiosk. Therefore, if permitted that 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 of the hub, 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 the non-digital advertisement currently displayed on the kiosk. This strikingly different form of advertising panel would be positioned close to another similar panel a short distance north of the appeal site. In this regard, rather than visually assimilating into the area, the proposal would noticeably intensify a form of advertising that is at odds with the more low-key forms of advertising and signage that characterise this area.

10. The appeal site is in a well-lit street in this predominantly commercial area. However, the nature of lighting from nearby streetlamps, traffic lights and illuminated signage on the office buildings is noticeably different to a large, changing digital display designed to attract attention at street level. Moreover, the proposal would lead to a concentration of this different form of advertising in this area. The cumulative effect of the proposed and existing strident advertisements would harmfully alter the appearance of this currently understated commercial street scene.
11. I note that the design of the hub has been influenced by the Council's guidance. However, for the reasons set out I find it would harm the appearance of the area, and this would not be negated by the hub being smaller than the existing kiosk. Furthermore, conditions covering matters such as speed of image change and levels of light for daylight and night-time periods,<sup>2</sup> and that would require the panel to be switched off for a period, would not minimise the cumulatively intrusive and incongruous aspects of the proposal described above. Therefore, these measures would not address the identified harm to the visual amenity of the area.
12. For Appeal A, I therefore find that the proposal would be harm the character and appearance of the area. As such it would be contrary to Policies D1 and D2 of the Camden Local Plan (Local Plan) which together seek high quality design in development.
13. For 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 and Pedestrian Flows*

14. The proposal would be located at the front of the pavement, near the carriageway, and this appear to be generally where other street furniture is located in this area. The unobstructed footway width that would remain near the new hub would exceed that advised in relevant guidance.<sup>3</sup> Moreover, the replacement structure would have a smaller footprint than the existing kiosk. Given these factors, and the relatively uncluttered character of this wide stretch of pavement, there would be ample space for pedestrians to pass freely, including people using wheelchairs or with prams. Also, the proposed hub would not present greater hindrance to disabled people, nor would it create an additional obstruction for those who are visually impaired. Consequently,

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<sup>2</sup> As recommended by the Institute of Lighting Professionals

<sup>3</sup> Refs: Camden Planning Guidance: Transport, Camden's Streetscape Design Manual and Pedestrian Comfort Guidance for London

the proposal would not have an unacceptable impact on existing pedestrian flows in this location and would not be detrimental to the promotion of walking.

15. Compared to the existing structure, the proposed hub would be similar in height, and distance from the edge of the pavement, such that it would not noticeably alter or restrict pedestrians' sightlines of the footway or the adjacent carriageway.
16. The advertisement would be principally visible to motorists travelling north along Theobalds Road. The carriageway near the appeal site is straight and wide, flanked by a wide pavement and this affords good visibility of vehicles exiting the nearby junction onto Theobalds Road, as well as other road users and pedestrians in the area.
17. The proposal would be a significant distance north of the signalised pedestrian crossing. This degree of separation, combined with the existing favourable road conditions outlined above, would allow motorists on Theobalds Road, when approaching the site, time to observe the digital advertisement before reaching the pedestrian crossing and junction of Boswell Street beyond it. This would help to ensure that motorists would not be harmfully distracted by the proposed addition to the street scene.
18. For vehicles exiting Boswell Street, this junction is close to the appeal site. However, this is a one-way junction restricted to traffic exiting the Street to turn north on to Theobalds Road. Also, I observed that motorists approaching this junction along Boswell Street have reasonable visibility of the appeal site before reaching the junction, such that they would be able to register the advertisement without being distracted from pedestrians crossing at this junction.
19. The Council has highlighted appeal decisions, where pedestrian safety 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 circumstances at those sites are not directly comparable to this. These decisions have not altered my assessment on this matter for this reason.
20. For both Appeal A and B, I therefore find that the proposals would not have a harmful effect on highway safety and pedestrian flows in the area. Although not determinative in the case of Appeal B, the proposals would not conflict in these regards with Policies D4, G1, A1, 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 provide high quality footpaths and pavements wide enough for expected volume of usage. The proposal would also generally accord with the advice set out in Camden Planning Guidance Transport and Transport for London Streetscape Guidance in respect to these matters.

#### *Crime and Anti-social Behaviour*

21. The Metropolitan Police have linked crime statistics and the location of kiosks around Camden. However, the proposed hub would include adaptations, and be supported by a management plan devised in consultation with a number of police forces. This addresses many of the issues raised by the Police particularly regarding the potential for misuse of free calls and other criminal and anti-social behaviour.

22. 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 in Camden Planning Guidance on Design, which seeks to minimise the size of kiosks to decrease opportunities for crime and anti-social behaviour.
23. The existing kiosk includes an advertising panel which screens people using the kiosk, but this is only from the south. This proposal would not significantly alter this existing arrangement. Moreover, the pavement in this area has an open character allowing reasonable natural surveillance at the site, and the design of the hub would also be relatively open. These factors would help to ensure that users of the hub would not be overly concealed, such that this would increase the risk of assault. This would also discourage offenders from loitering at this site.
24. 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.
25. 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 proposal. Those decisions are not directly comparable with this case for these reasons.
26. In respect of 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, among other things, that development is secure and designed to minimise crime and anti-social behaviour.

### **Other Matters**

27. 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.
28. The advertisement in the hub would contribute to the national and local economy, and this could include revenue for the local authority.<sup>4</sup> 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, these would be limited benefits given the scale of development.

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<sup>4</sup> Ref: Camden's Small Format Digital Advertising Specification

29. Matters set out in the maintenance plan for cleaning should be expected in respect to this installation. Details regarding pavement remediation has been submitted, but again making good the pavement following installation should also be an expectation.
30. 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. Moreover, 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. This matter does not weigh in favour of the proposal for this reason.
31. The appellant cites a number of other proposals granted permission and consent on the Tottenham Court Road. Also, the Council has highlighted appeal decisions dismissing similar proposals in other locations, for reasons including public safety. 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 have not altered my findings.
32. 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 this appeal. 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.
33. In respect of Appeal A, the Council state the absence of a legal agreement as a reason for refusing permission. As I am dismissing this appeal on other grounds it is not necessary to address this matter further in this instance.

### **Conclusion**

34. In Appeal A, the proposal would harm the character and appearance of the area and would be contrary to the development plan in this regard. The limited benefits outlined above would not outweigh this significant harm to the area. Accordingly, for the reasons stated above and having regard to the development plan taken as a whole, this appeal fails.
35. Regarding Appeal B, for the reasons given above the proposal would harm visual amenity. Accordingly, Appeal B is also dismissed.

*A J Sutton*

INSPECTOR