

## Appeal Decision

Site visit made on 13 December 2018

**by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> January 2019**

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### **Appeal A Ref: APP/N5660/W/18/3199779**

#### **Pavement outside 158 Westminster Bridge Road, London SE1 7RW**

- 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 Neil Scoresby, British Telecommunications plc against the decision of the Council of the London Borough of Lambeth.
  - The application, Ref. 17/04929/FUL, dated 9 October 2017, was refused by notice dated 8 February 2018.
  - The development proposed is the removal of 1no. KX100 telephone kiosk (Baylis Road OS Cole House) and the installation of 1no. InLink together with the display of externally illuminated 2 digital screens as an integral part of telephone kiosk.
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### **Appeal B Ref: APP/N5660/Z/18/3199780**

#### **Pavement outside 158 Westminster Bridge Road, London SE1 7RW**

- 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 Neil Scoresby, British Telecommunications plc against the decision of the Council of the London Borough of Lambeth
  - The application Ref. 17/04930/ADV, dated 9 October 2017, was refused by notice dated 8 February 2018.
  - The advertisement proposed is the display of an externally illuminated 2 digital screens as an integral part of the telephone kiosk.
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### **Appeal C Ref: APP/N5660/W/18/3199793**

#### **Waterloo Road, Outside Waterloo Station & Opposite Junction with Sandell Street, London SE1 8UD**

- 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 Neil Scoresby, British Telecommunications plc against the decision of the Council of the London Borough of Lambeth.
  - The application, Ref. 17/05483/FUL, dated 10 November 2017, was refused by notice dated 8 February 2018.
  - The development proposed is the removal of 1no. KX100 telephone kiosk (Kennington Lane (Knights Walk OS No. 54-60)) and the installation of 1no. InLink.
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**Appeal D ..... (over page)**

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**Appeal D Ref: APP/N5660/Z/18/3199786**

**Waterloo Road, Outside Waterloo Station & Opposite Junction with Sandell Street, London SE1 8UD**

- 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 Neil Scoresby, British Telecommunications plc against the decision of the Council of the London Borough of Lambeth
  - The application Ref. 17/05484/ADV, dated 10 November 2017, was refused by notice dated 8 February 2018.
  - The advertisement proposed is the display of an externally illuminated 2 digital screens as an integral part of the telephone kiosk.
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**Decision: Appeal A**

1. The appeal is dismissed.

**Decision: Appeal B**

2. The appeal is dismissed.

**Decision: Appeal C**

3. The appeal is allowed and planning permission is granted for the removal of telephone kiosks and the installation of 1no. InLink at Waterloo Road, Outside Waterloo Station & Opposite Junction with Sandell Street, London SE1 8UD in accordance with the terms of the application, Ref. 17/05483/FUL, dated 10 November 2017, subject to the conditions in the attached Schedule.

**Decision: Appeal D**

4. The appeal is allowed and express consent is granted for the display of an externally illuminated 2 digital screens as an integral part of the telephone kiosk as applied for. The consent is for five years from the date of this Decision and is subject to the five standard conditions set out in the Regulations and to the additional conditions in the attached Schedule.

**Preliminary Matters (Appeals A, B, C & D)**

5. Government policy in Section 10 of the National Planning Policy Framework 2018 ('the Framework') is entitled 'Supporting High Quality Communications'. Paragraph 112 says that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being and that planning policies and decisions should support the expansion of electronic communications networks.
  6. Paragraph 116 says that Local Planning Authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators or question the need for an electronic communications system.
  7. Paragraph 132 of the Framework advises that the quality and character of places can suffer when advertisements are poorly sited and designed. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
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8. As regards Appeal A and Appeal B only, there is a discrepancy between the addresses – outside No. 158 in the planning application appeal and outside No. 164 in the advertisement application appeal. However, the site plans are consistent with a position between these two addresses and this avoids the necessity for further clarification.

**APPEAL A** (*Planning Application for Installation of 1 InLink Kiosk: Pavement outside 158 Westminster Bridge Road*)

**Main Issue**

9. The main issue is the effect of the siting and appearance of the proposed kiosk on the character and appearance of the Lower Marsh Conservation Area and the street scene of Westminster Bridge Road.

**Reasons**

10. The boundary of the Lower Marsh Conservation Area runs to the rear of the properties on both sides of Westminster Bridge Road north west of its junction with Baylis and Kennington Roads and similarly follows Lower Marsh in a north east direction parallel to Waterloo Station and the railway lines that approach it.
11. I saw on my visit that where the boundary adjoins the railway viaduct near the junction between Westminster Bridge Road and Lower Marsh there is a plethora of signage, street furniture and advertisements including a particularly prominent 48 sheet externally illuminated poster hoarding.
12. However, away from that significant area of clutter, moving south eastwards along Westminster Bridge Road towards the junction with Baylis and Kennington Roads, there is a marked change in character and appearance, with a far more commercially restrained and less cluttered street scene. Furthermore, the officer's report refers to the variety of 18<sup>th</sup> and 19<sup>th</sup> century 3 to 5 storey commercial buildings with a variety of architectural detailing, and with the commercial premises terminating at the back of the pavement on a broadly consistent building line on both sides of the road. I was able to observe these respective demarcations between the area close to the viaduct and the rest of the road and between the commercial buildings and the pavement as being a positive feature in the street scene in particular and the conservation area in general.
13. Possibly the single exception in terms of pavement advertising in this part of Westminster Bridge Road away from the railway viaduct is the Council operated internally illuminated poster unit granted permission in 1998. And the grounds of appeal argue that partly because of this the siting of the proposed InLink kiosk would be in keeping with the established character and appearance rather than harmful to it, as stated in the Notice of Refusal.
14. However, the Council has explained that this poster unit pre-dates the 2007 publication of the Lower Marsh Conservation Area Statement and would not have been permitted under current planning policy. I note that the latter would include the relatively recent Lambeth Local Plan 2015 and the London Plan 2016. Whilst the appellant is correct to point out that as part of the established street scene this unit is material to the current proposal, on balance I take the

view that a further kiosk in this part of Westminster Bridge Road would, through the incremental erosion of both the afore-mentioned demarcations, exacerbate the harm already caused by the Council-owned facility.

15. This is because at present, the Council kiosk is a 'lone wolf' and insufficient in itself to change the street scene to being more in keeping with the overtly commercial and cluttered area closer to the railway viaduct. If I were to allow the appeal this existing marked contrast would be diluted. And although I have noted that the deadline for an appeal against the refusal of an application for an InLink unit on the opposite side of the road has now passed, a permission for this appeal scheme in addition to the Council kiosk would have a cumulatively adverse effect that would fail to preserve the character and appearance of the conservation area.

### **Conclusions**

16. On balance, I conclude that the siting and appearance of the proposed kiosk would have a harmful effect on the character and appearance of the Lower Marsh Conservation Area and the street scene of Westminster Bridge Road. This would be in conflict with Policy Q22 of the Lambeth Local Plan 2015 and with paragraph 132 and Section 16: 'Conserving and Enhancing the Historic Environment' of the Framework.
17. The harm caused to the significance of the conservation area as a designated heritage asset would in my view be 'less than substantial' and in accordance with paragraph 196 of the Framework I have therefore weighed this harm against the public benefits of the proposal.
18. These are firstly the wide range of telephone and data facilities offered by the unit itself, as set out in the Design and Access Statement, and secondly the de-cluttering as a result of the removal of existing kiosks. As regards the latter, the application refers to the removal of only one kiosk, and in line with the BT rationalisation programme the appellant has subsequently indicated a willingness to accept a condition on the permission that would ensure the removal of two kiosks.
19. I accept that these public benefits deserve some weight, but they are not exclusive to this appeal scheme. There are a number of other similar proposals in Lambeth and indeed as part of this linked appeal Decision I have accepted the appellant's argument for the installation of one InLink unit in Waterloo Road and the removal of two older kiosks elsewhere in the Borough, with the exact sites to be agreed.
20. Unless and until it can be established that the facilities offered by the units cannot be provided within a reasonably necessary distance from this appeal site and that there are two older kiosks that would not be removed as a result of other proposals in the rationalisation programme, I consider that the public benefit from a kiosk in this part of Lambeth would not outweigh the harm caused to the significance of the conservation area. And even in that scenario it would be a matter for the Council's judgement in the first instance having regard to the particular circumstances of the case.

## **APPEAL B** (*Application for Advertisement Consent for proposed kiosk in Appeal A*)

### **Main Issue**

21. The main issue is the effect of the proposed digital advertisement displays on the visual amenity of the street scene of Westminster Bridge Road which lies within the Lower Marsh Conservation Area.

### **Reasons**

22. The Council considers that the proposed illuminated advertisements in the kiosk in Appeal A would be intrusive, discordant and incongruous in the Lower Marsh Conservation Area and thereby detrimental to its character and appearance. This description in the Notice of Refusal is supplemented by the term 'alien' in the officer's report.
23. I have explained in Appeal A why I consider the proposed InLink unit in the location proposed would not preserve the character and appearance of the area. The LED digital display technology for the advertisements would inevitably draw the eye – indeed if they failed to, there would be little point in their installation. I therefore accept the Council's argument that they would be highly visible, especially in a street with only limited street furniture and few street trees to interrupt lines of sight for pedestrians and motorists alike.
24. I therefore consider the combination of the InLink unit itself and the advertisement displays would increase the commercial character and appearance of this part of Westminster Bridge Road to an extent that would not preserve those aspects of the conservation area and would thereby diminish its significance to some degree. However, I also take the view that terminology used by the Council to describe the effect of the advertisements is somewhat over-stated. Although the context is a conservation area, with the assets I have referred to and other heritage assets including locally and statutorily listed buildings, it is also a highly urbanised inner London Borough and needs to be assessed in that context.
25. Accordingly, it is a question of balance and for the reasons explained above and for the further reasons explained in Appeal A I conclude that the adverse effect of the advertisement displays on visual amenity would be such that the character and appearance of the conservation area would not be preserved. There would therefore be conflict with Local Plan Policies Q17 & Q22 and with paragraph 132 and Section 16 of the Framework.
26. Although the harm caused would be less than substantial, the explanation in Appeal A as regards weighing the public benefits applies equally in this appeal and I see no reason to repeat it here.

### **Conclusion**

27. For the reasons explained above, the appeal is dismissed.

**APPEAL C** (*Planning Application for Installation of 1 InLink Kiosk: Waterloo Road opposite the junction with Sandell Street*)

**Main Issue**

28. The main issue is the effect of the siting and appearance of the proposed kiosk on the character and appearance of the street scene of Waterloo Road.

**Reasons**

29. The Council's objection to the installation of the proposed InLink kiosk is that together with other street furniture in the area it would result in a cluttered street scene contrary to Policies T10 and Q6 of the Lambeth Local Plan 2015. In particular, the officer's report argues that the InLink unit would harmfully add to the existing physical and visual clutter in this locality.
30. However, I saw on my visit that the selected site would be on the pavement opposite Sandell Street and roughly at a mid-point between two lampposts, this being a clear area of pavement without any other street furniture. As regards clutter in terms of a harmful physical obstruction to pavement users, there would be a post-installation pavement width of 3.37m, and although this includes about a metre of land associated with Waterloo Station, I consider the likelihood of this becoming unavailable for public use to be remote.
31. Given that compared with conventional phone kiosks (both the traditional and newer styles) the InLink unit is of a slender construction with a very limited footprint, I consider that even allowing for the intensive use of this section of pavement there would not be an impediment to pedestrian flow or to pushchairs or wheelchair / mobility scooters. Certainly, I take the view that even when the pavement is particularly busy at peak times the InLink unit would not be reason for pedestrians to stray onto the road with the attendant dangers that would involve.
32. As regards visual clutter, in some cases an absence of existing street furniture is an argument for keeping an area of pavement entirely free from new installations as a pleasing visual relief from nearby more cluttered areas. However, this depends on the individual circumstances of each case and in respect of this section of pavement I do not regard it as having a high level of amenity, ambience or facilities that would encourage passers-by to do anything more than carry on with their journeys without delay.
33. Accordingly, in this context I do not consider that the InLink kiosk would be perceived as being visually detrimental to this section of pavement, whereas the facilities and public service that it offers might be reasonably argued to be particularly useful adjoining a major transport interchange. And as the grounds of appeal say, the siting of the InLink unit would be such that it would sit in its own space and be aligned neatly with the street lighting columns.
34. I have noted the objection from TfL, but Lambeth Transport are not opposed to the scheme and subject to the standard caveats in respect of such matters as siting they regard the unit as being consistent with the aims and objectives of Local Plan Policy T10.

## **Conclusions and Conditions**

35. Overall, I consider that the siting and appearance of the proposed InLink kiosk would not have an adverse effect on the character and appearance of Waterloo Road. There would therefore be no harmful conflict with Policies Q5, Q6, Q17 & T10 of the Lambeth Local Plan 2015 and with Government policy on telecommunications in Section 10 of the Framework.
36. As regards conditions, a condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and in the interests of proper planning. A condition requiring the pavement surface materials to match the existing will protect the visual amenity of the area. This objective will also be secured by a condition requiring the removal of the kiosk when it is no longer required.
37. There is also a condition needed to secure the public benefit of the removal of two older kiosks as part of the appellant's rationalisation programme. In this regard the appeal application only suggests the removal of one – at Knights Walk, Kennington Lane and I have also noted the Council's point that the removal of this kiosk would offer only limited public benefit.
38. Be that as it may, the appellant has recognised that the removal of two kiosks is required and suggested a condition that would secure this, with their location to be agreed between the parties. I have therefore imposed this condition which I consider will secure both the public benefit sought and enhance the character and appearance of the location where the kiosks are removed through the de-cluttering achieved. For the sake of consistency, I have amended the description of the development in my Decision to refer to un-named kiosks in the plural, with the locations to be agreed with the Council.

## **APPEAL D** (*Application for Advertisement Consent for proposed kiosk in Appeal C*)

### **Main Issue**

39. The main issue is the effect of the proposed digital advertisement displays on the visual amenity of Waterloo Road.

### **Reasons**

40. Notwithstanding the comment of TfL that the advertisement display would distract drivers (a view not shared by Lambeth Transport), the Notice of Refusal makes no mention of an adverse effect on public safety. However, the Council considers that the digital advertising display would represent an intrusive, discordant and incongruous form of development that would harm the amenity of the area contrary to its policies and Government policy in the Framework.
41. However, I saw on my visit that the character and appearance of the street scene is already informed by advertisement displays, including a particularly large billboard on this side of the road adjacent to the first railway bridge, and an LED digital display as part of a nearby bus shelter / stop.
42. Furthermore, as I have indicated in Appeal C, the urban environment is one in which visual amenity has to be assessed in the context of a location dominated

by Waterloo's main line and underground's connections, with Waterloo Road as a busy thoroughfare facilitating the adjoining bus and road network to other parts of London.

43. When these considerations are taken into account together with the modest scale of the proposed InLink unit I find it difficult to accept the argument that the development would be perceived as having an adverse effect on visual amenity, and this would appear to be borne out by there being no response to consultation on the application for planning permission / advertisement consent from either individual members of the public or organisations including the Association of Waterloo Groups; Waterloo Community Development Group, and the Kennington Oval & Vauxhall Forum.

### **Conclusions and Conditions**

44. For the reasons set out above I conclude that the proposed kiosk would not have a harmful effect on the amenity of Waterloo Road.
45. I have taken into account Policies Q5, Q6 and Q17 of the Lambeth Local Plan which respectively seek to maintain local distinctiveness, ensure high standards of design in the public realm, and regulate advertisements and signage and so are material in this case. Given I have concluded that the proposal would not harm amenity, the proposal does not conflict with these policies.
46. The Council and the appellant have suggested conditions to be imposed if the appeal is allowed and I have had regard to these, noting that there are similarities between them. I have based my conditions on the appellant's list and consider that these, together with the five standard conditions in the Advertisement Regulations, will be adequate in the case of this development in this particular location. These conditions will protect the visual amenity of the area and maintain public safety.

*Martin Andrews*

INSPECTOR

### **APPEAL C: CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this Decision;
- 2) The development shall be carried out in accordance with the following approved plans: OS Based Location Plan; Drawing No. D0002: InLink UK Unit Dimensions; Existing & Proposed Views: Photograph & CGI; Drawing No. LMB-070-SP-V1: Existing & Proposed Site Plan;
- 3) All surface materials shall match the existing adjacent surface materials;
- 4) No development shall commence until the details of two suitable kiosks identified for removal are submitted to and approved in writing by the Local Planning Authority. Thereafter, the two kiosks shall be removed and the surrounding surface shall be made good using materials to match the existing adjacent surface materials, prior to the commencement of the installation of the development hereby approved.
- 5) The kiosk hereby permitted shall be removed from the land on which it is situated within three months of the date it ceases to be used for telecommunication purposes.

### **APPEAL D: CONDITIONS (Additional to the 5 standard conditions in Part 5, Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 [S.I. 2007 No. 783]**

- 1) The intensity of the illumination of the digital signs shall not exceed the maximum permitted recommended luminance for an advertisement of this type and proposed location as set out by 'The Institute of Lighting 'Professional's Professional Guide 05: The Brightness of Illuminated Advertisements';
- 2) The digital sign shall not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements);
- 3) The minimum display time for each advertisement shall be 10 seconds;
- 4) The interval between advertisements shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including fading, swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction;
- 5) No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.