The Planning Inspectorate

Appeal Decisions

Site visit made on 16 December 2018

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2018

Appeal A Ref: APP/Z4310/W/18/3205104
Church Street (Outside No.1-5 Forever 21), Liverpool L1 1DA

- 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 British Telecommunications Plc against the decision of Liverpool City Council.
- The application Ref 18F/0604, dated 26 February 2018, was refused by notice dated 23 April 2018.
- The development proposed is the removal of (2) existing BT payphones and the erection of (1) freestanding InLink providing free ultrafast WiFi and other community services and with excess space returned to the community.

Appeal B Ref: APP/Z4310/W/18/3205102
Church Street (Outside No.1-5 Forever 21), Liverpool L1 1DA

- 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 British Telecommunications Plc against the decision of Liverpool City Council.
- The application Ref 18A/0605, dated 26 February 2018, was refused by notice dated 23 April 2018.
- The advertisement proposed is two digital LED display screens, one on each side of the InLink.

Decisions

1. Appeal A is allowed and planning permission is granted for the removal of (2) existing BT payphones and the erection of (1) freestanding InLink providing free ultrafast WiFi and other community services and with excess space returned to the community at Church Street (Outside No.1-5 Forever 21), Liverpool L1 1DA in accordance with the terms of the application, Ref 18F/0604, dated 26 February 2018, subject to the conditions set out in the attached schedule.

2. Appeal B is allowed and express consent is granted for the display of the two digital LED display screens, one on each side of the InLink 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 the additional conditions set out in the attached schedule.

Procedural Matter

3. In refusing planning permission and advertisement consent the Council referred to a number of listed buildings. The buildings referred to are not identical on each decision notice. Although the decisions are independent of each other, they do relate to the same site and the same freestanding InLink.

Given the statutory duty under Section 66(1) of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, I have considered both appeals having regard to all of the listed buildings cited by the Council.

Main Issues

4. For Appeal A the main issues are: (i) whether the proposal would preserve or enhance the setting of the Liverpool Maritime Mercantile World Heritage Site (WHS), 81 to 89 Lord Street, 25 and 25a Church Street, 45 Whitechapel and 19 to 23 Sir Thomas Street and Compton House (33 to 45 Church Street), Grade II listed buildings, and the character or appearance of the Castle Street Conservation Area (CSCA); (ii) the effect of the proposed development on highway safety in Church Street, with regards to vehicular traffic; and (iii) the effect of the proposed development on pedestrian movement in Church Street.

5. For Appeal B the main issues are the effect that the advertisements would have on: (i) visual amenity and, thus, the character and appearance of the area, having regard to the WHS, Grade II listed buildings at Nos 81 to 89, Nos 25 and 25a, No 45 and 19 to 23, and Compton House, and the CSCA; and (ii) public safety, with regards to vehicular traffic.

Reasons

Heritage Assets

6. In addition to Section 66(1) of the Act set out above, section 72(1) of the Act sets out the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

7. The appeal site is part of the CSCA which covers part of Church Street which is pedestrianised and in the heart of the city centre. The site lies between two existing planters which form informal seating areas and contain street trees. Church Street is mainly occupied by three and four storey high retail premises. Modern glazed retail buildings are between Whitechapel and Williamson Street. A large digital advertisement is positioned above the ground floor of the Forever 21 store at the corner of Church Street and Whitechapel. Paradise Street, Whitechapel and Lord Street are also pedestrianised and predominately occupied by retail premises, with the mixed-use Liverpool One to the south-west. These streets are individually and collectively subject to significant levels of footfall throughout the day and night.

8. A variety of adverts, many of which are illuminated, populate Church Street and the nearby area. These include digital advertisement screens on Church Street, Lord Street and Paradise Street. Other street furniture includes fingerpost signs, payphones, visitor information boards and CCTV columns. The streets are, at times, occupied by market stalls and form a bustling city centre environment.

9. The CSCA extends from the River Mersey and the iconic 'Three Graces' into the civic and commercial core of the city. The styles, ambitious designs and lavish decoration of buildings within the CSCA celebrate the city's mercantile wealth and trading links. The WHS covers most of the city centre and its central docks embodying the civic, mercantile and maritime history of Liverpool.

10. The World Heritage Committee considers that the WHS has Outstanding Universal Value (OUL) because: Liverpool played a leading role in the development of dock construction, port management and international trading systems in the 18th and 19th centuries; the buildings and structures of the port and the city are an exceptional testimony to mercantile culture; and Liverpool played a major role in influencing globally significant demographic changes in the 18th and 19th centuries, through a) its involvement in the Trans-Atlantic Slave Trade and b) its involvement as the leading port of mass European emigration to the New World.

11. The appeal site is outside of the WHS, which is to the north-west of the site. However, the site is within its Buffer Zone which provides a visual setting for the WHS and includes some historically significant features and major landmarks and where development could potentially have an adverse impact upon that setting. The principle of new development and the conservation of significant historic buildings in the Buffer Zone is positively encouraged in order to repair the fractured urban landscape and to contribute to the social and economic life of the city. Development does need to be sensitive and respond to, and reflect the character of the area so that the setting of, and OUL of the WHS is preserved or enhanced.

12. A number of Grade II listed buildings are on the northern sides of Church Street and Lord Street. Nos 25 and 25a and Nos 81 to 89 date from the mid and late 19th century respectively. Both buildings are four storey high and have retail units on the ground floor with a variety of adverts. Distinctive horizontal bands of red and orange stone extend across the upper floors of Nos 81 to 89 which consists of three large segmental arches with foliated caps. The middle arch has a recessed reverse bay. The design recalls Siena Cathedral. The first floor of Nos 25 and 25a has round headed windows with keystones, ornamented spandrels, and divided by panelled pilasters. The second and third floors have rusticated flat pilasters behind giant columns with shaftings at second floor sill level.

13. Compton House is occupied by a longstanding department store. The building dates from 1865 – 1867 and it is built from stone and slate. The ground floor consists of a modern glazed shop front with advertisements. The upper floors form a dominate feature within Church Street, with pavilions at either end. The centre of the building is emphasised by a large round headed window with broken pediment at first floor over with ornamental brackets. Second floor windows have panelled pilasters and entablatures, while third floor windows have shouldered architraves. To the centre there is a rectangular panel with the Liverpool arms over. The mansard roof has bull's eye dormers.

14. The Grade II listed building at 45 Whitechapel and 19 to 23 Sir Thomas Street are three storey high with a canted corner bay, with further bays either side facing Whitechapel and Sir Thomas Street. Each window is sashed.

15. Designated heritage assets are irreplaceable resources, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. 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.

16. The listed buildings on Church Street and Lord Street are some distance from

the proposed InLink and digital advertisements, while the WHS is further away still. The listed buildings do, however, still form part of this busy commercial environment which the proposals seek to integrate into. The InLink would be clearly visible within Church Street when it is viewed from the east and west of the site and from the junction of Church Street with Paradise Street, Whitechapel and Lord Street. However, these views are long and include wide streets which lead into the WHS to the west. The proposals would be viewed in amongst other street furniture, such as several freestanding structures with LED advertisement screens that are of a similar size to the proposals. Even though these may be outside the CSCA, they are within the WHS Buffer Zone and are in some cases closer to the listed buildings on Lord Street and Church Street than the appeal schemes. The proposed InLink would not obstruct views into, out of and around the CSCA or of the WHS.

17. The InLink has been designed to be accessible and easy to use for all. The advertisements would be within an area where adverts form part of the areas commercial character and appearance. These draw the attention of people using, and experiencing the nearby area, especially to the ground floor commercial frontages. People generally experience long-range views of the upper floors of the listed buildings, other than when immediately next to or opposite them. The size, siting, design of the proposed InLink together with the size and means of display of the advertisements would not prevent people from experiencing these views.

18. I recognise that this part of the city centre has been subject of significant financial investment, development, regeneration and that the streets have been revitalised through high quality public realm works. However, the proposals would not be over dominant or incongruous in the site's context. The removal of two payphones would, even though they do not have digital advertisements, also help keep street furniture to a minimum.

Conclusions on this issue

19. The InLink subject of Appeal A would not harm the setting associated with the WHS or conflict with its OUL; or the setting of the CSCA and the listed buildings identified. As such, I conclude, on this issue that the proposal subject of Appeal A would preserve these heritage assets and accord with saved Policies HD5, HD14, HD18 and HD27 of The Liverpool Unitary Development Plan (UDP); which jointly seek, among other things, high quality design that is of a scale, design and siting that relates well to the localities character and appearance, to preserve the setting and important views of listed buildings and conservation areas, while keeping street furniture to a minimum and remove any redundant street furniture. I have also had regard to Section 16 of the National Planning Policy Framework (the Framework) which promotes the conservation and enhancement of the historic environment and heritage assets.

20. In respect of Appeal B, the Council have cited saved UDP Policies HD5 and HD25. I have taken both policies into account as they seek to protect amenity, including the presence of historic and architectural interests, and so are material in this case. I have also had regard to Framework paragraph 132 and Section 16; which seek to prevent the negative impact of poorly sited and designed advertisements and promote conservation and enhancement of the historic environment and heritage assets.

21. I conclude, on this issue, in terms of Appeal B that the advertisements would

be acceptable in terms of visual amenity and, thus, the character and appearance of the surrounding area, having regard to the WHS, the Grade II listed buildings, and the CSCA. Thus, Appeal B would not conflict with the policies set out above.

Highway safety - vehicles

22. Bollards prevent motorised traffic from using Church Street and the streets near to site other than service vehicles associated with commercial premises between the hours of 18:00 to 10:00 each day. Hence, the street is for large parts of the day pedestrianised. Church Street, Paradise Street, Lord Street and Whitechapel are wide, well-lit and there is good visibility along the streets.

23. I do not have any details of the number, type or frequency of vehicles using Church Street during the controlled period, but there is no substantive evidence which says that the shared use of this space currently presents any highway safety issues or that vehicles have not been able to access commercial premises. Nor is there any substantive evidence that the numerous existing digital screens on Paradise Street, Lord Street and Church Street, which are of a similar size, siting and design to the proposal, have distracted drivers using these streets.

24. The proposed freestanding InLink would be between two planters which inhibit the movement of vehicles between them. In practice, vehicles, depending on their size, would use the spaces either side of the planters given their width and the absence of street furniture. The proposal would add to the existing restriction between the planters, but the scheme subject of Appeal A includes the removal of two existing payphones. Given this, together with the siting, size and slim design of the proposed InLink, drivers would not be distracted; an improvement would be made in terms of access and circulation for all; and no effect would be caused to the free flow of vehicular traffic on the street.

25. I note the proposed luminance of the advertisements subject to Appeal B. This is high even in a city centre environment. However, a planning condition could be used to control the maximum lamination as suggested by the Council. By using this, coupled with the size and siting of the proposal subject of Appeal B, I do not consider that drivers would be distracted, and so the free flow of servicing vehicles using the street would not be harmed.

Conclusions on this issue

26. I conclude, on this issue, in respect of Appeal A that the proposal would not have an adverse effect on highway safety in Church Street, with regards to vehicular traffic. As such, Appeal A would accord with saved UDP Policies GEN 6 and GEN 9; which jointly seek to improve access and circulation and allow the safe, efficient and easy movement of good into and throughout the city.

27. Of the policies that the Council have referred to in respect of Appeal B, I have taken saved UDP Policies HD25, GEN 6 and GEN 9 into account as they jointly seek to protect amenity, and so are material in this case. I have also had regard to Framework paragraph 132 in relation to Appeal B as it is concerned with the control of advertisements in the interest of public safety. I conclude, on this issue, that the advertisement subject of Appeal B would be acceptable, insofar as public safety, with regards to vehicular traffic using the highway. Thus, Appeal B would not conflict with the policies set out above.

28. The Council have cited saved UDP Policies T8 and T9 in relation to Appeals A and B, but they relate to investment in roads and road safety measures, which are not relevant to the concerns raised in either appeal.

Highway safety – pedestrian movement

29. Large numbers of pedestrians use Church Street. Pedestrians travel along the length of Church Street, between retail premises on either side of the road, and onto Paradise Street, Lord Street and Whitechapel from their junction with Church Street to the west of the appeal site. Thus, pedestrians using Church Street move in a variety of directions, but primarily in an east/west direction.

30. The proposed Inlink structure (Appeal A) would be on the northern side of the street in-between existing planters, and near to a litter bin. The footway either side of the planters is unobstructed. The widest section is to the south, while a narrower section is to the north. Pedestrians move between these two areas using the space between the two planters, however the main flow of pedestrians is in the wider sections of the street.

31. Saved UDP Policies GEN9 and HD19 jointly seek to improve access and circulation for all. The proposed development would introduce a further physical barrier into the street, which pedestrians would need to navigate around. Nevertheless, the appeal scheme involves the removal of two existing payphones. This coupled with the design and siting of the InLink would improve existing access and circulation conditions for all. There is also no substantive evidence before me that existing street furniture in Church Street impedes pedestrian movement on the street.

32. As such, on this issue, I conclude that the proposal subject of Appeal A would accord with saved UDP Policies GEN9 and HD19 which jointly seek to improve access and circulation for all. Although the Council refer to saved UDP Policy T8 on this issue, this policy relates to investment in roads, and is not therefore relevant to the concerns raised.

Conclusions and conditions

33. I have had regard to the planning conditions suggested by the Council in respect of Appeal B in the event that I was minded to allow the appeal. No planning conditions were suggested by the Council for Appeal A. I have, in the interests of certainty imposed the standard commencement condition and a plans condition.

34. For Appeal B, I have imposed a condition to control the advertisements illuminance level and so that it is not intermittent to avoid glare, dazzle or distraction to passing motorists and pedestrians. For the same reason I have imposed conditions so that the display only shows two-dimensional static images, and about the frequency of changes to the displays.

35. For the reasons set out above, I conclude that Appeals A and B should be allowed.

Andrew McGlone

INSPECTOR

SCHEDULES OF CONDITIONS

Appeal A

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan Rev A; Site Elevation Rev A; and LVP-019-EP-V1.

Appeal B

1) The levels of the illuminance shall not exceed 600cd/m² during daylight hours or exceed 300cd/m² during twilight and night hours; as defined by official lighting up times.

2) The screen displays shall only show two dimensional static images, shall contain no moving images, animation, video or full motion images and no messaging should spread across more than one screen image.

3) The advertisement displays shall not change more frequently than every 10 seconds and the rate of change should be instantaneous.

4) The illumination of the advertisements shall not at any time be intermittent.

END OF SCHEDULES