
Appeal Decisions

Site visit made on 15 July 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th July 2019

Appeal A Ref: APP/W2465/W/18/3217403

Pavement to the south of 38 Humberstone Gate, Haymarket Shopping Centre, Leicester LE1 3PH

- 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 Thomas Fisher, on behalf of Euro Payphone Ltd against the decision of Leicester City Council.
 - The application Ref 20181133, dated 18 May 2018, was refused by notice dated 4 October 2018.
 - The development proposed is for the erection of 1no. smart hub with 2no. inset digital advertising screens.
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Appeal B Ref: APP/W2465/W/18/3217404

Pavement to the south of 38 Humberstone Gate, Haymarket Shopping Centre, Leicester LE1 3PH

- 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 Thomas Fisher, on behalf of Euro Payphone Ltd against the decision of Leicester City Council.
 - The application Ref 20181134, dated 18 May 2018, was refused by notice dated 4 October 2018.
 - The advertisement proposed is for the erection of 1no. smart hub with 2no. inset digital advertising screens.
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Decision

1. Appeal A and Appeal B are dismissed.

Procedural Matters

2. The two appeals relate to the same appeal site and to each other. I have considered each on its individual merits, but as they raise similar issues, I have dealt with the case in a single decision letter.
3. These appeals have been lodged as part of a suite of appeals for similar devices in numerous locations throughout Leicester City Centre. The Council has provided a single statement of case that encompasses all appeals.

Application for costs

4. An application for costs was made by Mr Thomas Fisher, on behalf of Euro Payphone Ltd, against Leicester City Council, against appeal A. This application is the subject of a separate Decision.

Main Issue

5. With regard to appeal A, the main issues are:
 - the effect of the proposal on the character and appearance of the area, and
 - the effect of the proposed structure on pedestrian flow.
6. With regard to appeal B, the main issue is the effect of the proposed advertisements on visual amenity.

Reasons

Background

7. The site, the subject of the appeals, is within a pedestrianised street in a city centre location. The street consists of different hard-surfaced treatments with street furniture mostly consolidated into groups within a lateral strip running parallel to the highway. The site of the proposal would be adjacent to a series of hooped cycle racks and a purple column and bin. This is also in front of a large retail store. The site makes a neutral contribution to the character and appearance of the area.
8. The proposal consists of a 'smart hub' which includes two illuminated advertising screens, data connection point and a range of further public services. It would include several public benefits in relation to both its data connections and services. The social and economic benefits are set out in appendix E of the appellant's Statement of Case.

Character and appearance

9. Policy CS03 of the Leicester City- Local Development Framework Core Strategy 2014 (CS) seeks to promote active frontages and an uncluttered street-scene. It also seeks to create spaces that respond to changing social, technological and economic conditions. Paragraph 110 of the National Planning Policy Framework (The Framework) seeks development that avoids unnecessary street clutter and responds to local character and design standards. Furthermore, Guidance identifies the importance of public spaces and routes that are attractive, accessible and uncluttered¹. The Council is attempting to reduce and rationalise street furniture in the City Centre. However, it has not identified that this is subject to a public realm strategy.
10. Nearby street furniture consists of a column, bin and cycle racks. A wider view also takes in a phone kiosk towards Charles Street and a large utility cabinet in the opposite direction. Local street furniture is generally smaller than that proposed. Considering the context, the proposed 'smart hub' would be a relatively utilitarian and bulky feature, especially due to its wide base and monolithic form. Therefore, even in comparison to existing street furniture, the proposal would appear bulky and substantial. Furthermore, the structure would be an uncomfortable juxtaposition between the appearance of a large mobile phone and a free-standing illuminated advertisement. Therefore, whilst the structure would be located within an established street furniture zone, its bulk and prominence would be harmful to the character and appearance of the area.

¹ Planning Practice Guidance- Paragraph: 009 Reference ID: 26-009-20140306

11. Also, a recent appeal decision for a telephone kiosk close to the site of this proposal, for prior approval was dismissed². The Inspector found that whilst the structure would be in a line with other street furniture, it would introduce a bland additional structure which would harm the character and appearance of the area. Whilst only considering siting and appearance the conclusions drawn are material in this case.
12. As a result, the proposal would not accord with Policy CS03 of the CS which seeks development that contributes positively to the character of an area. Furthermore, the proposal would not comply with the Framework, which seeks well designed places where development is sympathetic to the local character.

Pedestrian Flow

13. The proposal would be located in front of a large retail unit. It would also be close to the main doors, where pedestrian flow would be relatively high and concentrated. The site is adjacent to an existing cluster of street furniture. This obstructs some pedestrian routes emerging from the front of the adjacent retail store. I observed on my visit that pedestrian flow is somewhat corralled into the gap between the cycle racks and the column. The proposal would therefore further impede pedestrians to the detriment of the permeability of the pedestrianised area. Therefore, in combination with existing street furniture and due to its specific location, the proposal would have a significant effect on pedestrian flow through the main thoroughfare to the front of the adjacent retail unit.
14. As a result, in regard to appeal A, the proposal would not accord with Policy CS03 of the CS which seeks development that meets the highest standards of accessibility and supports the provision of pedestrian routes, cycle routes and infrastructure to provide good access around the city. Furthermore, the proposal would not comply with the Framework, in so much as it seeks development that creates places that are safe and accessible.

Visual amenity

15. The site is within a retail area and this includes a number of illuminated fascia signs. However, these are mostly arranged within uniform signage zones and collaborate to create a generally unified order of advertisements. Street level advertisements are less common. Although on my visit I saw some free-standing advertisements within bus stops and telephone kiosks, these were relatively rare and discrete. In contrast, the proposed advertisement panels would be prominent and harmful to the surrounding general uniformity. The proposed display panels would sit within a relatively thick frame. This would be emphasised by the deep base, which barely tapers as it meets the ground. Furthermore, whilst the display would be smaller than a standard '6-sheet' display panel, its chunky frame draws attention and emphasises its bulk. Therefore, despite being in a commercial area the proposed advertisement would be inappropriate due to its prominence.
16. Consequently, the proposed advertisement would be harmful to the visual amenity of the area. Therefore, the proposal would not accord with the Framework, which requires development to be sympathetic to the local area and in particular respect of amenity. In accordance with the Regulations, I have

² Planning Appeal Reference: APP/W2465/W/18/3193587

also taken into account the provision of the development plan so far as it is material. The proposal would not accord with Policy CS03 of the CS, which requires well designed development that contributes positively to the character and appearance of the built environment.

Other Matters

Appeal A and appeal B

17. In regard to design, the appellant has referred to an appeal decision in Belfast where the Commissioner considered that the smart hub would be similar in size to a traditional phone box and be no more obtrusive than other advertisements in the area³. However, the full context of that decision is not in evidence and the decision was made in a different policy context. In any event each case must be treated on its own merits. Also, the design would be a modern structure, coloured black and with four active sides. It has been designed to assist pedestrians who are visually impaired due to its simple base. However, these design features only have a limited bearing in favour of the proposal.
18. The appellant also refers to the Council's recent approval of the BT Inlink telephone kiosks. He has raised concerns regarding consistency of decision making, especially in regard to design comparisons. These issues have only a limited bearing on the main issues as the design of the proposal is markedly different to the approved kiosk design. I also recognise that the BT decisions have been able to offer the removal of existing street furniture with a net loss of street furniture, this would have been a material benefit of those proposals.
19. The appellant has referred to recently approved smart hub structures on Vaughan Way. Having considered the siting of those proposals, the context is significantly different to the proposed site. Those decisions have not therefore established a clear precedent. Furthermore, the Council's decision to approve those Euro Payphone devices does not necessarily illustrate that the design is appropriate in all circumstances. Conversely, each proposal and its effect must be judged on its own merits.
20. Chapter 10 of the Framework identifies that a high quality and reliable communication infrastructure is essential for economic growth and social well-being. It also seeks to prevent decision makers placing a ban on new installations or inhibit competition. However, these considerations are not without regard to the Framework as a whole.
21. The appellant has alleged that the Council's approach to these proposals has included generic statements and 'in principle' objections, especially in regard to clutter. However, I have determined each case on its own merits with regard to its local context.

Conclusion

22. For the above reasons appeals A and B are dismissed.

Ben Plenty

INSPECTOR

³ Appellant's Statement of Case- Appendix I, Appeal Decision Reference 2017/A0237 & 2017/A0234