
Appeal Decisions

Site visit made on 6 August 2019

by Michael J Muston BA(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th August 2019

Appeal A Ref: APP/P4605/W/18/3202333

Station Street (opposite Crown Public House, at junction with Hill Street), Birmingham

- 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 of British Telecommunications plc, against the decision of Birmingham City Council.
 - The application Ref 2017/10808/PA, dated 19 December 2017, was refused by notice dated 28 February 2018.
 - The development proposed is "*the removal of 2no. KX100 telephone kiosks and the installation of 1no. InLink*".
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Appeal B Ref: APP/P4605/H/18/3201351

Station Street (opposite Crown Public House, at junction with Hill Street), Birmingham

- 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 of British Telecommunications plc, against the decision of Birmingham City Council.
 - The application Ref 2017/10920/PA, dated 19 December 2017, was refused by notice dated 28 February 2018.
 - The development proposed is "*the removal of 2no. KX100 telephone kiosks and the installation of 1no. InLink*".
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Main Issues

3. The main issues in relation to Appeal A are:
 - the effect of the proposal on the character and appearance of the area, and
 - whether the proposal would create a barrier to pedestrian movement.
4. The main issues in relation to Appeal B are the impact on:-
 - amenity, and
 - public safety.

Reasons

Appeal A – Character and appearance

5. The appeal site is located immediately adjacent to one of the entrances to the relatively recent “Grand Central” development. This entrance also provides access to Birmingham New Street station. It features a large wide flight of steps leading down from the “Grand Central” development, which then open out onto the corner of Station Street and Hill Street. Above the entrance is the ‘electronic eye’, which is of significant scale, and includes a large eye-shaped digital screen. In the paved area in front of the entrance are two roughly triangular planters, a row of bollards, litter bins, traffic lights, a lamp-post and two existing totems. The totem closest to the entrance is within one of the planters and welcomes visitors to New Street station, whilst the one set towards Hill Street provides a map of Birmingham city centre on one side and information about New Street station on the other. Whilst a large digital screen and street furniture does therefore exist in the area, it gives the impression (with the exception of the traffic lights and lamp-post) of having been carefully planned.
6. The proposed unit would be a “monolith” approximately 2.9 metres high, between 0.8 and 0.9 metre in width, and about 0.3 metre deep. It would be located in the open area between the row of bollards and the junction of Station Street and Hill Street. It would be a very prominent feature when seen on approach to the entrance steps, from Hill Street to the south-east and from Station Street to the south-west. In this context, the proposed unit would, by reason of its height, width, siting and the materials from which it would be made, appear as an unduly prominent and discordant feature in the street scene. It would add clutter in the form of an additional adhoc piece of street furniture to an area that currently appears open and well planned.
7. The appellants point out that the ‘electronic eye’ also displays digital advertising and is much larger than the proposed InLink. Whilst this is true, the ‘electronic eye’ has been carefully designed and located to appear as an integral part of this entrance to the station and the Grand Central development. By contrast, the appeal proposal would appear as unplanned clutter, directly in front of that entrance. The totem displaying local information is set further away from the entrance and, by virtue of its function, appears as a more appropriate piece of street furniture in its setting.
8. Policy PG3 of the Birmingham Development Plan 2017 (BDP) seeks development that, amongst other things, reinforces or creates a positive sense of place and local distinctiveness, with design that responds to site conditions and the local area context, including the appropriate use of innovation in design. The harm that the appeal scheme would cause, which I have identified above, makes the proposal contrary to this policy.
9. Policy GA1.1 of the BDP says, amongst other things, that new development should make a positive contribution to improving the vitality of the City Centre. Policy GA1.4 says that measures to improve accessibility to and within the City Centre will be supported. The proposal does not offend these policies. Policy TP39 says that the provision of safe and pleasant walking environments throughout Birmingham will be promoted by, amongst other things, ensuring that pedestrian routes and areas are free from unnecessary clutter. The

proposal is contrary to this policy to the extent that it would introduce clutter into a pedestrian area.

10. Saved Policy 3.14D of the Birmingham UDP 2005 deals with urban design and says, amongst other things, that the scale and design of new buildings and spaces should generally respect the area surrounding them, and should reinforce and evolve any local characteristics which are considered to be positive. The proposal would not respect the surrounding area and is therefore contrary to this policy.
11. The Council has also adopted two documents as part of the Big City Plan: a Master Plan (MP) dated 2011 and a City Centre Retail Strategy (RS) dated 2015. The MP designates this junction as a primary walking route, where improvements to the public realm will be prioritised. The RS stresses the role of public realm improvements in creating a network of pedestrian friendly, clutter-free streets. The appeal proposals would introduce an additional piece of adhoc street furniture into an area that currently appears well planned. I have not been provided with evidence that these documents have been subjected to appropriate public consultation, which limits the weight I can attach to them. However, the proposals are contrary to the aims of these documents, and this supports my view that the proposal would harm the character and appearance of the area.
12. I conclude that the InLink unit as proposed in Appeal A would have an adverse effect on the character and appearance of the area. It would be contrary to Policy PG3 of the BDP and saved Policy 3.14D of the UDP in this respect, as well as relevant guidance within the MP and RS.

Appeal A – Pedestrian movement

13. The entrance to Grand Central and New Street station, adjacent to the appeal site, is undoubtedly busy during peak times. However, the area in front of the entrance, where the InLink would be located, is a pedestrianised area of considerable size, with few other obstructions to pedestrian movement. The proposed InLink would be located between the bollards and Station Street, in the centre of a currently open area. Ample space would still exist to either side to allow pedestrians to move safely around the area. I conclude that the proposal would not create a barrier to the movement of pedestrians and would comply with Policies PG3, GA1.1, GA1.4 and TP39 of the BDP and saved Policy 3.14D of the UDP in this respect, as well as relevant guidance within the MP and RS.

Appeal B

14. The display of the 2 internally illuminated digital LED advertisement panels, as applied for, would add to the visual impact of the structure in its setting. These advertisements on either side of the InLink would draw attention to the structure, which would be located in a prominent and highly visible location. In this setting, the presence of an internally illuminated advertisement on each side of the proposed unit would appear strident and dominant, particularly during the hours of darkness, and would add to the harm to amenity that would be caused by the unit itself. I acknowledge that the nearby 'electronic eye' features a very large illuminated display, but in a deliberate and planned manner. It does not provide a pretext for the display of further illuminated advertisements in the surrounding area. I conclude that the proposal would

cause unacceptable harm to amenity, and would be contrary to Policies PG3 and TP12 of the BDP and saved Policy 3.14D of the UDP in this respect, as well as relevant guidance within the MP and RS.

15. The addition of advertisements to the proposed InLink unit would increase its visibility in the area, but would not result in it becoming a barrier to the movement of pedestrians. The Council accepts in its officer report that there is insufficient justification to refuse advertisement consent on grounds of public safety. I agree and conclude that the proposal would not have an adverse effect on public safety, and would comply with Policies PG3, GA1.1, GA1.4 and TP39 of the BDP and saved Policy 3.14D of the UDP in this respect, as well as relevant guidance within the MP and RS.

Benefits of the scheme

16. The High Court judgement in *Westminster City Council v Secretary of State for Housing Communities and Local Government* [2019] EWHC 176 (Admin) (05 February 2019), although referring to a kiosk, has some relevance in that the structure in that case was providing both communications and advertising. On the basis of the information supplied in relation to the InLink structure, I conclude that it too would serve a dual purpose in providing both communication services and in hosting advertising intended to fund these functions. Nonetheless, the provision of the communications element, including Wi-Fi and public information, in line with the advice in the National Planning Policy Framework, would provide some benefit, which therefore weighs in favour of the structure.
17. Part of the proposal is the removal of two KX100 telephone kiosks. The appellant has stated that he would be happy for this element of the proposal to be secured by Grampian condition and has set out in a schedule which two existing kiosks would be removed in relation to each proposed new InLink unit in Birmingham. The two kiosks that would be removed in relation to these appeals are some considerable distance away from the appeal site. Their removal would do nothing to mitigate the harm that would be caused by the appeal proposals.

Other Matters

18. Many of the points raised by third parties have been dealt with above. In addition, concerns have been raised in relation to a number of other matters, including the need for further public telephones, that the unit may become a target for flyposting and graffiti, possible links to criminal activity, and the amount of such structures in the city centre. I have considered all of the points raised; however they do not outweigh my conclusions on the main issues.

Conclusions

19. I have concluded that both proposals would adversely affect the character and appearance of the area. This harm outweighs the benefits arising from the proposal. The lack of harm in other respects is a neutral factor. For the reasons given above, therefore, I conclude that both appeals should be dismissed.

Michael J Muston

INSPECTOR