



Appeal Decisions

Site visit made on 2 July 2019

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2019

Appeals A1, B1, C1, D1, E1, F1 and G1

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3, Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeals are made by Mr Nathan Still (Infocus Public Networks Ltd) against the decisions of City of Nottingham Council.
 - The proposed development in each case is installation of an electronic communications apparatus.
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Appeals A2, B2, C2, D2, E2, F2 and G2

- The appeals are made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeals are made by Mr Nathan Still (Infocus Public Networks Ltd) against the decisions of City of Nottingham Council.
 - The advertisement proposed in each case is display of a single illuminated sequential display affixed to the frame of the communication hub.
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Appeal A1 Ref: APP/Q3060/W/18/3214625

Pavement Outside 7 -11 Milton Street, Nottingham NG1 3EP

- The application Ref 18/01313/PAT, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal A2 Ref: APP/Q3060/H/18/3214627

Pavement Outside 7 -11 Milton Street, Nottingham NG1 3EP

- The application Ref 18/01333/ADV2, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal B1 Ref: APP/Q3060/W/18/3214633

Pavement Outside 15 Trinity Square, Nottingham NG1 4AF

- The application Ref 18/01314/PAT, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal B2 Ref: APP/Q3060/H/18/3214634

Pavement Outside 15 Trinity Square, Nottingham NG1 4AF

- The application Ref 18/01334/ADV2, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal C1 Ref: APP/Q3060/W/18/3214309
Pavement Outside 3 Market Street, Nottingham NG1 6HY

- The application Ref 18/01306/PAT, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal C2 Ref: APP/Q3060/H/18/3214310
Pavement Outside 3 Market Street, Nottingham NG1 6HY

- The application Ref 18/01326/ADV2, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal D1 Ref: APP/Q3060/W/18/3214260
Pavement Opposite 8 – 10 Beastmarket Hill, Nottingham NG1 6FB

- The application Ref 18/01304/PAT, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal D2 Ref: APP/Q3060/H/18/3214280
Pavement Opposite 8 – 10 Beastmarket Hill, Nottingham NG1 6FB

- The application Ref 18/01324/ADV2, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal E1 Ref: APP/Q3060/W/18/3214247
Pavement Outside 20 Albert Street, Nottingham NG1 7DA

- The application Ref 18/01302/PAT, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal E2 Ref: APP/Q3060/H/18/3214248
Pavement Outside 20 Albert Street, Nottingham NG1 7DA

- The application Ref 18/01322/ADV2, dated 2 July 2018, was refused by notice dated 24 August 2018.
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Appeal F1 Ref: APP/Q3060/W/18/3214239
Pavement Outside 11 – 17 Lister Gate, Nottingham NG1 7DE

- The application Ref 18/01301/PAT, dated 2 July 2018, was refused by notice dated 28 August 2018.
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Appeal F2 Ref: APP/Q3060/H/18/3214244
Pavement Outside 11 – 17 Lister Gate, Nottingham NG1 7DE

- The application Ref 18/01321/ADV2, dated 2 July 2018, was refused by notice dated 28 August 2018.
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Appeal G1 Ref: APP/Q3060/W/18/3214641
Pavement Outside 36 Lister Gate, Nottingham NG1 7DD

- The application Ref 18/01316/PAT, dated 2 July 2018, was refused by notice dated 28 August 2018.
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Appeal G2 Ref: APP/Q3060/H/18/3214642
Pavement Outside 36 Lister Gate, Nottingham NG1 7DD

- The application Ref 18/01336/ADV2, dated 2 July 2018, was refused by notice dated 28 August 2018.
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Decisions

1. All the appeals **A1 – G1** inclusive and **A2 – G2** inclusive are dismissed.

Procedural Matters

2. As set out above, there are seven appeal sites with fourteen appeals in total (two on each site). I have considered each proposal on its own individual merits. However, the communication hub and advertisement are inextricably linked in each case and therefore to avoid duplication I have dealt with the two appeals together having regard to the independent requirements of both the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) for the proposals on each site.
3. The description of the proposed communication hubs on the application forms for Appeals A1 – G1 inclusive included a superfluous reference to the relevant section of the GPDO which I have deleted in the interests of brevity.
4. The description of the advertisement on the application forms only confirmed that the advertisements were conjoined with the separate applications for the communication hubs and that the advertisements would be to the façade of this structure. I have therefore taken the description of the proposal for Appeals A2 – G2 inclusive from the Council's decision notice which was the same in each case.
5. For consistency, I have also used the address as given on the appeal form and the Council's decision notice which gives the precise location of each site.
6. The provisions of Schedule 2, Part 16 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require the local planning authority and therefore the Secretary of State to

assess the proposed development solely on the basis of its siting and appearance. Matters such as the principle of development and the need for the facilities are not issues within the scope of appeals **A1 – G1** inclusive. I have made my determinations with regard to the siting and appearance of the proposed development in accordance with the GPDO.

7. With regards to appeals **A2 – G2** inclusive, Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the National Planning Policy Framework (the Framework) both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
8. For all the appeals, the Council has referred to the policies in the development plan that it considers relevant. For applications for prior approval and applications for advertisement regard does not need to be had to the development plan. Nonetheless, whilst these policies have not by themselves been decisive, I have taken these policies into account as a material consideration.
9. The revised Framework was published on 24 July 2018 and therefore before the applications were determined by the Council. The Framework was updated on 19 February 2019 following submission of the appeals. Insofar as the Framework is relevant to my determination of these appeal, its policies in relation to telecommunications and advertisements have not been significantly altered such as to prejudice either of the main parties by taking it into account as a material consideration.

Main Issues

10. The main issue for appeals **A1 – G1** inclusive is whether each communication hub would preserve or enhance the character or appearance of the Old Market Square Conservation Area.
11. The main issue for appeals **A2 – G2** inclusive is the effect of each advertisement proposal on amenity. In addition, in relation to the advertisements proposed under appeals **C2** and **D2** whether either advertisement would have an acceptable impact on public safety.

Reasons

Proposed communication hub and advertisement

12. In each case the proposed communication hub would include a telephony face and an advertised face hence why there are two appeals on each appeal site. The communication hub would have a side profile measuring some 0.3 metres but would have a maximum footprint of around 0.9 metres x 1.3 metres when accounting for a projecting canopy to the telephony face. It would have a height of approximately 2.6 meters. The communication hub would be multifunctional and the telephony side would include solar panel to the canopy, a 32 inch touch screen, a telephone handset, USB and wireless charger, and a defibrillator.
13. The advertised face would be a 6-sheet display and would form an integral part of the communication hub. It would incorporate an ultra HD digital screen designed to be visible outdoor in direct sunlight and featuring an automatic dim

function. The image on the advertisement would change in a repeated sequence.

14. The drawings do not confirm the orientation of the communication hubs in each case. Accordingly, I have determined the appeals with reference to the position of the hub shown on the ordnance survey based plans and photograph annotated 'Illustration of proposal' in each instance.

Old Market Square Conservation Area

15. The seven individual appeal sites are all located within the Old Market Square Conservation Area (CA). Its significance derives from the height of the buildings, the variety of architecture and the network of streets and their commercial frontages around the Old Market Square one of the busiest concentrations of pedestrian and public transport activity in the city centre. The Council's submissions also refer to the setting of heritage assets although my attention has not been drawn to any particular asset other than the CA itself.

Appeals A1 and A2: 7 – 11 Milton Street

16. This part of Milton Street is heavily trafficked by vehicles and pedestrians particularly given its location opposite the Victoria Shopping Centre. It is located in close proximity to the traffic-controlled junction of Milton Street and Upper Parliament Street towards the northern periphery of, but within the CA boundary. The location of the site is within a widened area of the pavement between a taxi bay and a pedestrian crossing, the latter of which leads over to the main pedestrian access point to Victoria Shopping Centre. Whilst traffic lights, bus stops, an information board and pedestrian directional signage to the front of the Shopping Centre are all within the wider periphery, the pavement on this part of Milton Street is relatively open with street furniture limited to a waste bin, bollards to the pavement edge adjacent to the taxi bay and lighting columns.
17. The proposed communication hub would be located close to the pavement edge, on a similar alignment to the taxi bay and forward of the existing waste bin and bollards. The height of the structure and detailing of its various elements, on both the telephony face and advertised face, would result in the communication hub being a bulky and visually prominent addition to the currently more open widened section of pavement. The digital advertisement would draw further attention to the structure.
18. To conclude, the siting and appearance of the communication hub and digital advertisement would be harmful to visual amenity and the character and appearance of the CA. This harm justifies the refusal of prior approval under Appeal A1 and the dismissal of Appeal A2.

Appeals B1 and B2: 15 Trinity Square

19. The appeal site relates to a section of the pavement on the thoroughfare between Milton Street and Forman Street and adjacent to a raised wall which forms part of the hard-landscaped Trinity Square. Trinity Square is a pedestrianised area with a busy footfall owing to the multitude of shops, restaurants, bars and cinema complex located there. At the time of my visit, the thoroughfare was generally free from street furniture other than lighting

columns, which are slim in profile, and a small number of movable A-boards associated with commercial premises.

20. The positioning of the proposed bulky communication hub and a digital advertisement in this location would disrupt the general feel of openness along this thoroughfare to the detriment of visual amenity and the character and appearance of the CA. This harm justifies the refusal of prior approval under Appeal B1 and the dismissal of Appeal B2.

Appeals C1 and C2: 3 Market Street

21. The proposed position of the communication hub and advertisement is within a widened section of the pavement on Market Street on the approach to the Old Market Square. Other than posts associated with the overhead cables serving the adjacent tram route and posts with traffic control related infrastructure at a pedestrian crossing which sits close by, this section of Market Street is generally free from street furniture.
22. The location of a communication hub of the bulk and height proposed and the provision of a digital advertisement to one of the facades of the hub would be an incongruous addition within otherwise more open vistas towards the Old Market Square to the south and the Theatre Royal to the north. When facing south and seen in combination with the abundance of existing street furniture in the Old Market Square, this would only go to increase the number of objects within an already cluttered streetscape, exacerbating the impact of the proposals.
23. The position of the hub and advertisement close to the pavement edge means it would sit close to trams travelling north along Market Street. The scale and proximity of the structure to the road means it would impede visibility for tram drivers of pedestrian activity on the footpath just beyond the position of the hub as well as of the tram signal at the junction of Market Street and Upper Parliament Street. I acknowledge there is a reasonable distance for tram drivers to react to the signal once they have travelled beyond the position of the hub and advertisement, and there is a pedestrian crossing south of the hub which should reduce potential for pedestrians choosing to cross behind the proposed position of the hub. However, there would still be an undesirable relationship with public safety when considering visibility for tram drivers and this compounds the harm to visual amenity.
24. Accordingly, the proposals for a communication hub and advertisement at this location would be a bulky addition to the streetscape and would be harmful to visual amenity and the character and appearance of the CA. For the reasons given the proposals would also impact on public safety. This harm justifies the refusal of prior approval under Appeal C1 and the dismissal of Appeal C2.

Appeals D1 and D2: 8 – 10 Beastmarket Hill

25. The site relates to a section of pavement between a raised water feature in the Old Market Square and the tram route operating along South Parade and Market Street. Given its central location within the city centre, this is a very busy area for pedestrians, trams and buses. Buildings are positioned to the outer edge of the Old Market Square and whilst the square itself has an overall open character there is a strong presence of street furniture including fencing,

seating areas, waste bins, posts associated with the tramline overhead cables, bus stops and lighting columns. However, whilst there is a multitude of fixed infrastructure within the streetscape; the heights, position and profile of much of these elements means a general feeling of openness is retained and larger structures such the tram and bus stops are partially clear glazed located away from this side of Beastmarket Hill.

26. The communication hub and advertisement would be aligned with an existing waste bin and a post associated with a tramline overhead cable. However, the bulk, height and design of the proposals would result in it being a more prominent and obtrusive addition when compared with these existing structures to the detriment of the generally open feel on this section of pavement.
27. I note the Council's concerns as to the proximity of the hub and advertisement to what is a principle thoroughfare for tram movements in the city centre. Given the hub and advertisement would be set away from the pavement edge, the expanse of the open vista at this point and that illumination of the advertisement would be dimmed during evening hours, I consider it unlikely the hub and advertisement would be so harmful to public safety at this location to warrant refusal on its own. However, this does not override the harm I have identified to the visual amenity of the area.
28. To conclude, the scale of the communication hub and advertisement and its position in a prominent relatively open location in the Old Market Square would be harmful to the visual amenity of the area and at odds with the character and appearance of the CA. This harm justifies the refusal of prior approval under Appeal D1 and the dismissal of Appeal D2.

Appeals E1 and E2: 20 Albert Street

29. Albert Street is a busy pedestrianised street. St Peter's Church and St Peter's Square are situated to the north and the pedestrianised intersection with Low Pavement, Castlegate and Listergate are located to the south. The appeal site is located close to this intersection. When facing south the intersection itself is generally free from the variety of street furniture that can be seen on adjoining streets. Facing north from the appeal site there are a host of fixtures either side of the main pedestrian thoroughfare including street trees, benches, waste bins, lamp posts, and fixed free-standing advertisement boards. In terms of street furniture, the two sides of the street almost mirror each other, although two fixed freestanding advertisement boards have been separated with one on either side and at opposite ends of the street.
30. Whilst the proposed communication hub and advertisement would be aligned with the row of street furniture on one side of Albert Street, it would be bulkier and more elaborate in its composition than any of the existing street furniture on Albert Street. Factoring in the existing fixed freestanding advertisement opposite the site, it would also result in there being two large advertisements at this end of Albert Street, resulting in advertisements having an undue prominence within this part of the street.
31. Consequently, the proposals would be an alien addition to the street reducing the existing symmetry of the street furniture and having a detrimental impact on the visual amenity of the area. On this basis the proposals would not

preserve or enhance the character or appearance of the CA. This harm justifies the refusal of prior approval under Appeal E1 and the dismissal of Appeal E2.

Appeals F1 and F2: 11 – 17 Lister Gate

32. The site of these appeals is situated on the pedestrianised Lister Gate which is flanked by shop frontages including national retail outlets. Consequently, this is a part of the city centre with a high level of footfall. Street trees form a prominent part of the street furniture in rows, either side of the section of Lister Gate that the appeal site is situated. The trees are interspersed by other items including lamp posts, waste bins and benches many of which are aligned with each other giving some symmetry to the street. There are also a small number of fixed free-standing advertisement structures placed at irregular intervals. The proximity of the buildings either side of Lister Gate and the number of vertical features within the street already gives a relatively congested feel to the streetscene.
33. The proposed communication hub and associated advertisement would be aligned with the existing street furniture on one side of Lister Gate and opposite a fixed freestanding advertisement structure which sits within the line of street furniture on the opposite side of Lister Gate. Due to the height and bulk of the structure, the illumination and moving images on the advertisement and the arrangement of the various elements on the telephony face, the proposal would be out of keeping with the more simple and inconspicuous nature of the existing street furniture.
34. To conclude, the provision of a communication hub and digital advertisement in this location would be a prominent addition to an already busy streetscape. Accordingly, the proposals would have a negative impact on the visual amenity of the street resulting in harm to the character and appearance of the CA. This harm justifies the refusal of prior approval under Appeal F1 and the dismissal of Appeal F2.

Appeals G1 and G2: 36 Lister Gate

35. This section of Lister Gate has a harder landscape than the northern section of the street given there are no street trees. The entrance to Broad Marsh Shopping Centre, with large canopy over its entrance, forms a prominent end to the street. Street furniture to the side of the thoroughfare where the site of the appeals is situated includes benches, a waste bin and lighting columns. Whilst a waste bin, benches and lighting columns also exist to the opposite side of this section of Lister Gate, any symmetry is disrupted by the other more bulky infrastructure to that side which includes telephone kiosks and a fixed free-standing advertisement.
36. The street furniture close to the site of the appeals already has a disjointed appearance due to the differing elements to either side of Lister Gate. A further bulky structure in the form of the proposed communication hub and digital advertisement would further detract from the visual appeal of the pedestrianised approach to the Broad Marsh Shopping Centre and the visual amenity of the area in general.
37. In conclusion, the proposal would have a harmful effect on the visual amenity of Lister Gate and the character and appearance of the Old Market Square

Conservation Area. This harm justifies the refusal of prior approval under Appeal G1 and the dismissal of Appeal G2.

Other Matters

38. The appellant has drawn to my attention support in national policy for the provision of telecommunication infrastructure. I note that the communication hubs would include open access to assist users who would have difficulty negotiating sprung doorways and would also be devoid of hazardous materials making them easier to recycle once their use comes to an end. I accept that a shopping area within a CA might still be expected to accommodate new street furniture given the commercial context of a city centre location. I also note the additional conditions suggested by the appellant in respect of the proposed advertisement appeals which could be utilised to prevent special visual effects and to limit the intensity of illuminance on the advertisement. However, these material considerations do not override the harm I have identified in terms of the specific design and location of the proposals before me.

Conclusions

39. Having regard to the provisions of the GPDO in respect of appeals **A1 – G1** inclusive and the Regulations in respect of appeals **A2 – G2** inclusive, I conclude that the appeals should be dismissed.

M Russell

INSPECTOR