



Appeal Decisions

Site visit made on 6 August 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2019

Appeal Ref: APP/W2465/Z/18/3217387

Pavement to the south of 25 St. Nicholas Place, Leicester LE1 4LD

- 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 20181124, 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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Decision

1. The appeal is dismissed.

Procedural Matters

2. 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.
3. The appellant has provided a statement which also relates to the refusal of planning permission for a proposed smart hub on the pavement to the south of 25 St. Nicholas Place. However, this appeal only deals with the refusal to grant express consent.
4. Notwithstanding the Council's description of the address, I have taken the address of the site from the application form.

Main issue

5. The main issue of the appeal is the effect of the proposal on visual amenity bearing in mind it would be within the High Street Conservation Area (HSCA).

Reasons

6. The site is located off St Nicholas Place, to the north of Jubilee Square, towards the end of a series of other street furniture, including a cycle rack, planter, electrical box and bin. St Nicholas Place is delineated by tactile paving rather than kerbs, giving it a 'shared surface' character. Signage is generally subtle and well designed and street furniture comprises slim lighting columns and low-level items set around landscaped areas giving the area a spacious, uncluttered setting which makes a positive contribution towards this part of the HSCA.

7. The proposal consists of a 'smart hub' which includes two illuminated advertising screens, data connection point and a range of further public services. The public benefits relate to both its data connections and services. These include social and economic benefits and are fully set out in appendix E of the appellant's Statement of Case.
8. In terms of the proposal, the proportion of each display panel would sit within a relatively thick frame. The thickness of the frame 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 would draw attention and emphasise its bulk.
9. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area, in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
10. The proposed advertisements would be divorced from other advertisements and be highly prominent, particularly when travelling in an easterly direction along St Nicholas Place. Consequently, the proposal would be out of character with its context and harm the character and appearance of the local area. The advertisement would therefore be harmful to the visual amenity of the area, including the HSCA.
11. Thus, the proposed advertisement would not accord with paragraphs 127 and 132 of 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 also taken into account the provision of the development plan so far as it is material. As such, 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

12. 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 modern phone box and be no more obtrusive than other advertisements in the area¹. 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.
13. 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. The appellant has also drawn my attention to other advertisement applications submitted to the Council in 2016 and 2017, and in particular, an application for an advertisement opposite 9 Welford Place. However, I do not have full details of these applications before me. Furthermore, in relation to Welford Place, it does not affect the context of the appeal site nor is it comparable to the appeal site. I acknowledge that there are advertisements within the wider area which are larger than the appeal scheme, however, I have considered the appeal on its own merits.

¹ Appeal Decision Reference 2017/A0237 & 2017/A0234

14. 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.
15. 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

16. I have had regard to the benefits of the appeal proposal in terms of communication and public health. However, these matters do not outweigh the harm I have identified. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Martha Savage

INSPECTOR