



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: 05 September 2019

Appeal A Ref: APP/W2465/W/18/3217389

Pavement to the east of Highcross Shopping Centre, Causeway Lane, Leicester LE1 4SA

- 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 20181183, dated 22 May 2018, was refused by notice dated 5 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/Z/18/3217394

Pavement to the east of Highcross Shopping Centre, Causeway Lane, Leicester LE1 4SA

- 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 20181184, dated 22 May 2018, was refused by notice dated 5 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. The appeal is 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.
4. Notwithstanding the Council's description of the address, I have taken the address of the site from the application forms.

Main issues

5. With regard to appeal A, the main issue is:
 - the effect of the proposed structure on the character and appearance of the area.
6. With regard to appeal B, the main issue is the effect of the proposed advertisement on visual amenity.

Reasons

Background

7. The site, the subject of these appeals, comprises a section of footway which is separated from the highway by metal railings. This section of footway along Causeway Lane is generally free of street furniture providing a relatively clear, uncluttered view for pedestrians travelling towards the junction with Bathhouse Lane. The metal railings have the effect of visually and physically separating this section of footway from street furniture to the east, including a bus stop which is adjacent to the appeal site.
8. The Highcross information board and low-level bollards, as well as a change in paving design, delineates the entrance to Bathhouse Lane from the rest of Causeway Lane. To the east of the junction with Bathhouse Lane, along Causeway Lane, is a series of bus stops with advertisement boards. The bus stops have been grouped together with other low-level street furniture in a rhythmic pattern which gives that section of Causeway Lane a unified appearance.
9. 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.

Character and appearance

10. Policy CS03 of the Leicester City- Local Development Framework Core Strategy 2014 (CS) seeks to promote active frontages and an uncluttered street-scene and to create spaces that respond to changing social, technological and economic conditions. Paragraph 110 of the National Planning Policy Framework (The Framework) (2019) seeks to ensure that applications for development avoid unnecessary street clutter and respond to local character and design standards, amongst other things. Furthermore, Government guidance identifies the importance of public spaces and routes that are attractive, accessible and uncluttered¹.
11. The proposed smart hub would be relatively utilitarian and bulky, especially due to its wide base and monolithic form. Therefore, even in comparison to existing street furniture, the proposal would appear bulky and substantial. Although the smart hub would be sited close to a bus shelter of similar height, given the intervening railings and change in topography it would appear isolated and divorced from other street furniture along Causeway Lane. It would be viewed as a bulky structure and overtly prominent within its context.

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

Consequently, it would have a harmful effect on the character and appearance of the area.

12. As a result, in regard to appeal A, 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.

Visual amenity

13. Although the appeal site is adjacent to the Highcross Shopping Centre it is located along a section of highway which is relatively free of advertisements. Although there are advertisements in nearby bus stops these are physically and visually separated from the appeal site by topography and railings.
14. 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 draws attention and emphasises its bulk.
15. The proposed advertisements would be divorced from other advertisements and would be highly prominent. 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.
16. The appellant has drawn my attention to other advertisement applications submitted in 2016 and 2017, and in particular, an application for an advertisement opposite 9 Welford Place. 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.
17. Consequently, in regard to appeal B, 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

Appeals A and B

18. 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 area². However, the full context of that decision is not in evidence and the

² Appeal Decision Reference 2017/A0237 & 2017/A0234

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.

19. 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.
20. The appellant has drawn my attention to two approved smart hub structures on Vaughan Way. Whilst the approved sites are adjacent to Highcross Shopping Centre and are not within a conservation area, the smart hubs have been permitted along a section of Vaughan Way with a wide footway where street furniture is generally restricted to street lights, traffic lights, road signs and bollards. The context provided by Vaughan Way is therefore significantly different to Causeway Lane. 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. Furthermore, these decisions illustrate that the Council has not applied a moratorium on all 'smart hub' proposals.
21. Whilst the Highway Authority has raised no objection with the proposal, the lack of significant harm to highway safety is a neutral factor in my consideration of this appeal.
22. 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.
23. 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

24. The proposal would deliver some public benefits by the device. However, these benefits would not outweigh the harm identified to the character and appearance of the area.
25. For the above reasons appeals A and B are dismissed.

Martha Savage

INSPECTOR