



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/18/3217384

Pavement to the west of Jubilee Square, Leicester LE1

- 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 20181121, 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/Z/18/3217385

Pavement to the west of Jubilee Square, Leicester LE1

- 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 20181122, 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. 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, lies to the west of Jubilee Square, a substantial pedestrianised area located towards the end of the High Street Conservation Area (HSCA). The HSCA comprises retail and commercial uses and derives its interest from both the historical pattern of development and the attractive and traditional architectural detailing. Since the High Street Conservation Area Appraisal (HSCAA)(2006) was published, improvements have been carried out to the public realm, including the replacement of street surfaces and street furniture.
8. 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. Bus stops close to the appeal site have a sleek design and limited signage.
9. The structure would be placed on a section of footway close St Nicholas Circus, adjacent to a landscaped area which visually separates the appeal site from Jubilee Square. 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. Policy CS18 of the CS states that the Council will protect and seek opportunities to enhance the historic environment including the character and setting of designated and other heritage assets.
11. Paragraph 110 of the National Planning Policy Framework (The Framework) (2019) seeks to ensure that applications for development, amongst other things, avoid unnecessary street clutter and respond to local character and design standards. Furthermore, Government guidance identifies the importance of public spaces and routes that are attractive, accessible and uncluttered¹.
12. The site is within the High Street Conservation Area (HSCA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the HSCA. Furthermore, paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

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

13. 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 appeal site would be separated from Jubilee Square by the landscaped area, it would be part of the overall experience by pedestrians travelling towards St Nicholas Place and would be viewed as a bulky structure and overtly prominent within its context. Consequently, it would have a harmful effect on the HSCA. As a result, in regard to appeal A, the proposal would not accord with Policy CS03 and CS18 of the CS, the requirements of which are set out above.
14. Paragraph 184 of the Framework states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance. Paragraph 196 goes on to advise that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
15. For the reasons given, the proposal would harm the character and appearance of the area and the significance of the HSCA. I consider that the harm arising to the significance of the designated heritage asset would be less than substantial in the context of paragraph 196 of the Framework. The Framework is clear that any harm to the significance of a designated heritage asset should require clear and convincing justification.
16. I acknowledge that the appeal scheme would provide some benefit in terms of connectivity, data collection and public health, however, these benefits would be outweighed by the harm I have identified to the HSCA, the conservation of which I attribute great weight to.

Visual amenity

17. Existing signage within the HSCA is largely subtle and well designed. As such advertisement in the area generally make a positive contribution to the local area.
18. 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.
19. The proposed advertisements would be divorced from other advertisements and 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, including the HSCA.
20. 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

21. The site is close to two grade I listed buildings; Jewry Wall and St Nicholas Church. I have a statutory duty² to have special regard to the desirability to preserve the setting of a listed building. The Council has not objected to the proposal on the basis of its effect on the listed buildings and, following my inspection, I concur that the significance of both heritage assets would be preserved due to the separation distance.
22. 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 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.
23. 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.
24. 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 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.
25. 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.
26. 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.

² Under section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990

³ Appeal Decision Reference 2017/A0237 & 2017/A0234

Conclusion

27. 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