



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/18/3217415

Pavement to the west of Gateway House on the corner of The Gateway and Gosling Street, Leicester LE1 9BH

- 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 20181153, 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/18/3217416

Pavement to the west of Gateway House on the corner of The Gateway and Gosling Street, Leicester LE1 9BH

- 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 20181154, 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, comprises a section of pavement on the corner of Gosling Street and The Gateway, in front of Gateway House, the entrance to which was fenced off at the time of my site visit. The area is dominated by university buildings and is pedestrianised beyond the appeal site. The wider area has undergone significant improvements to the public realm. Street furniture in the area is generally located within the pedestrianised area and is frequently associated with feature landscaping.
8. 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

9. 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.
10. 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 it would not dominate long views along either The Gateway or Gosling Street, it would be viewed as a bulky structure and overtly prominent to the front of Gateway House. Moreover, it would be isolated and divorced from other street furniture. Consequently, it would have a harmful effect on the character and appearance of the area.
11. As a result, in regard to appeal A, the proposal would not accord with Policy CS03 of the CS which seeks to ensure that development 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.

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

Visual amenity

12. The proposed structure would be within an area dominated by university buildings. Although the character of the appeal site differs to the adjacent area, improvements to the public realm in this area appear ongoing, including to the front of Gateway House. Existing advertisements in the area are frequently associated with buildings, with free standing adverts more limited. Although I saw free standing advertisements in the wider area, these are limited in number and, given their location within the pedestrianised area, do not appear overly dominant features in the street scene.
13. 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. 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.
14. 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. I have taken into account policy CS03 of the CS which requires well designed development that contributes positively to the character and appearance of the built environment and so is material in this case. Given I have concluded that the proposal would harm visual amenity, the proposal conflicts with this policy.

Other Matters

Appeals A and B

15. 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 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.
16. 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.
17. The appellant has drawn my attention to other advertisement applications submitted in 2016 and 2017, and in particular, an application for an

² Appeal Decision Reference 2017/A0237 & 2017/A0234

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.

18. 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.
19. 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

20. 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 and to visual amenity.
21. For the above reasons appeals A and B are dismissed.

Martha Savage

INSPECTOR