



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 Ref: APP/W2465/W/18/3217418

Pavement to the east of 37 Western Boulevard, Leicester LE2 7HN

- 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 20181139, dated 18 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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Decision

1. The appeal is dismissed.

Procedural Matters

2. This appeal has 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 application submitted by the appellant was for planning permission and consent to display advertisement(s). Advertisement consent was approved by notice dated 5 October 2018, reference 20181140. This appeal therefore only relates to the Council's refusal of planning permission.
4. Notwithstanding the Council's description of the address, I have taken the address of the site from the application forms.

Main issue

5. The main issue of the appeal is the effect of the proposed structure on pedestrian flow.

Reasons

6. The appeal site comprises a section of footway close to a number of commercial units and is a short walk from Bede Park and DeMontfort University buildings. In front of the units, between the appeal site and the road, is a strip of pavement which the Council assert is in private ownership. Although this strip provides access to the various retail units, there were various obstructions along it during my site visit, including the parking of a vehicle and siting of A-boards.
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 the appellant's Statement of Case.

8. I saw that this location does not have a particularly high footfall. However, I visited the site in August when fewer students are likely to be present. Given the proximity of the site to the University and student accommodation, I consider it likely that footfall is higher during term time and at particular times of the day and evening, when students are likely to be travelling to and from their halls of residence.
9. The proposed structure would be close to the kerb-line and would be located approximately 3.9m from the adjacent building. While the footpath appears wide, some of this comprises private footway. Although a width of approximately 1.3m public footway would remain after installation of the smart hub, users of the smart hub would be likely to occupy much of the remaining space on the public footway whilst using the device. Although pedestrians may be able to utilise the private footway, I have no substantive evidence that this would itself remain unobstructed, nor is this a matter which could be addressed via condition or other legislation.
10. As such, I consider it likely that the proposal would have a significantly harmful effect upon the free-flow of pedestrian movement with regard to convenience and safety. The proposal would therefore conflict with Policies CS03 and CS14 of the Leicester City Local Development Framework Core Strategy 2014 (CS) which both seek to encourage walking and in particular, Policy CS03 which seeks to secure this by ensuring layouts prioritise safe, well connected pedestrian routes. Furthermore, the proposal would not comply with the National Planning Policy Framework (the 'Framework')(2019), in so much as it seeks development that creates places that are safe and accessible.

Other Matters

11. I acknowledge that the appellant has sought to address concerns raised by the Highway Authority regarding the effect of the proposal on visibility splay by relocating the proposed smart hub away from the nearby service yard and car park. However, as set out above, the re-siting of the proposal has not addressed concerns relating to the free-flow of pedestrians.
12. 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. 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 and am not persuaded that these are comparable to the appeal site. I acknowledge that there are structures within the wider area which are larger than the appeal scheme, however, I have considered the appeal on its own merits.
13. 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.

14. 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

15. The proposal would deliver some public benefits by the device. However, these benefits would not outweigh the harm identified to pedestrian convenience and safety.
16. For the above reasons the appeal is dismissed.

Martha Savage

INSPECTOR