



Appeal Decisions

Site visit made on 21 August 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2019

Appeal A Ref: APP/W2465/W/18/3217401

Pavement outside 2-6 Gallowtree Gate, Leicester LE1 1DA

- 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, Euro Payphone Ltd against the decision of Leicester City Council.
 - The application Ref 20181151, 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/W/18/3217402

Pavement outside 2-6 Gallowtree Gate, Leicester LE1 1DA

- 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, Euro Payphone Ltd against the decision of Leicester City Council.
 - The application Ref 20181152, 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. Appeal A and Appeal B are dismissed.

Application for costs

2. An application for costs was made by Mr Tom Fisher, against Leicester City Council, in respect of appeal A. This application is the subject of a separate Decision.

Procedural Matters

3. Both 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 and to avoid duplication, I have dealt with them in a single decision letter.
4. This appeal has been lodged as part of a suite of appeals for similar devices in different locations in Leicester City Centre. The Council has provided a single statement of case that encompasses all appeals.

Main issues

5. With regard to appeal A, the main issues are the effect of the proposed structure on the character and appearance of the area; and, highway safety.
6. With regard to appeal B, the main issues are the effect of the proposed advertisement on visual amenity.

Reasons

Background

7. The appeal site comprises part of a wide pedestrianised area along Gallowtree Gate which forms one of the main shopping thoroughfares in Leicester City Centre, where the commercial character prevails.
8. The proposal is for a 'smart hub' which incorporates two illuminated advertising screens, data connection point and a range of other public services¹. The public benefits relate to both its data connections and services. These include social and economic benefits and are detailed in the appellant's Statement of Case².

Character and appearance

9. The smart hub is to be sited along a pedestrianised thoroughfare. Most notably, along the eastern side of this pedestrianised area is a strip of darker paving which defines a 'street furniture zone'. There are some more substantial elements of street furniture which include telephone kiosks and poster display panels. In general, the existing street furniture which includes seating and bins is carefully arranged between alternative pairs of lighting columns. Overall, this orderly arrangement of street furniture has resulted in the creation of open and largely uncluttered spaces. This positively contributes to the character and appearance of the area.
10. The location for the proposal is a space between two lighting columns which is free of any street furniture. However, the proposed smart hub would be relatively utilitarian and bulky, especially due to its comparatively thick frame. The thickness of the frame would be emphasised by the deep base, which barely tapers as it meets the ground, giving it a monolithic form. In particular, in comparison to the nearby street furniture the smart hub would appear substantial. Consequently, the proposed smart hub would be readily apparent, disrupting the orderly appearance of the public realm and forming a prominent visual addition to it. The visual impact of the proposal would be greatest within the immediate area. However, by reason of its scale, form and position, it would also establish an increased proliferation of bulky street furniture resulting in visual clutter adversely impacting on longer views along Gallowtree Gate.
11. For the above reasons, in respect of appeal A, the proposal would fail to accord with Policy CS03 of the Leicester City-Local Development Framework Core Strategy 2014 (CS) which seeks development that contributes positively to the character of an area. The proposal would also fail to accord with the Framework, which seeks well designed places where development is sympathetic to the local character.

¹ As set out in the submitted Planning Statement

² Appendix E – Smart Hub Public Benefits Schedule

Highway Safety

12. The site is within a wide pedestrianised area. Furthermore, the proposal would be located in-line with existing street furniture. As such, even with the siting of the smart hub, sufficient unobstructed footway would be retained along and across Gallowtree Gate. The proposal would therefore have no harmful effect upon highway safety, in respect of the free-flow of pedestrian movements with regard to convenience and safety.
13. Accordingly, in regard to appeal A the proposal would not conflict with Policies CS03 and CS14 of the CS, in so far as these seek developments that meet the highest standards of accessibility and support the provision of pedestrian routes, cycle routes and infrastructure to provide good access around the city. Furthermore, the proposal would accord with the Framework, in so much as it seeks development that creates places that are safe and accessible.

Visual amenity

14. The proposed structure would be within a commercial area. However, the existing signage is largely incorporated into well-designed frontages. Furthermore, advertisements incorporated within other devices and 6-sheet displays are less prevalent than other forms of street furniture along Gallowtree Gate. As such, the existing advertisements complement the area.
15. In contrast, each proposed display panel would occupy a substantial part of the street hub, which I have already found would be of a substantial scale and a prominent addition. Furthermore, whilst the display on the smart hub would be smaller than a standard '6-sheet' display panel, its chunky frame draws attention and emphasises its bulk. Moreover, when travelling along Gallowtree Gate the proposed advertisement would be viewed in the context of an existing telephone kiosk with a large display panel and a 6-sheet display panel, to the north-east of the site. Consequently, the cumulative impact of these advertisements along with the increase in visual clutter would be to the detriment of the character and appearance of the area and would therefore harm its visual amenity.
16. As such, 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, including in respect of amenity. In accordance with the Regulations, I have also considered 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 amongst other things requires well designed development that contributes positively to the character and appearance of the built environment.

Other Matters

Appeals A and B

17. In respect of design, the appellant has referred to an appeal decision³ 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 area. However, the full details of that proposal are not in evidence and the decision was made in a different policy context.

³ Appellant's Statement of Case- Appendix I, Appeal Decision Reference 2017/A0237 & 2017/A0234

18. I acknowledge that smart hub has been designed to assist pedestrians who are visually impaired due to its simple base. However, such design features only have a limited bearing in favour of the proposal.
19. There are other large items of street furniture in the City centre which include telephone kiosks, bus shelters and display panels. These are of different designs and therefore not comparable to the appeal scheme. Moreover, and irrespective of the appellant's allegation that the Council's approach to the smart hub proposals has included generic statements and an 'in principle' objection, I have determined each proposal on its own merits having regard to its specific context.
20. The appellant also refers to the Council's approval of the BT InLink devices. He has raised concerns regarding the 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 BT InLink devices. I also recognise that the BT decisions may 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.
21. The appellant has referred to recently approved smart hub structures on Vaughan Way. Having considered the siting of those proposals, the context is significantly different to the appeal site. Those decisions have not therefore established a clear precedent. Furthermore, the Council's decision to approve those does not necessarily illustrate that the design and siting is appropriate in all circumstances. Nevertheless, the approved schemes demonstrate that the Council has not applied a moratorium on all 'smart hub' proposals.
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. Nonetheless, such considerations are not without regard to the Framework as a whole.
23. The proposal would deliver some public benefits. However, these benefits would not outweigh the harm identified to the character and appearance and visual amenity of the area.

Conclusion

24. In respect of appeal A, although I have found that the proposal would not adversely impact on highway safety, this does not outweigh the harm to the character and appearance of the area.
25. For the above reasons appeals A and B are dismissed.

M Aqbal

INSPECTOR