



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/18/3217312

Pavement to the north of 1 Granby Street, Horsefair Street, Leicester LE1 6EJ

- 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 20181147, dated 18 May 2018, was refused by notice dated 3 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/18/3217313

Pavement to the north of 1 Granby Street, Horsefair Street, Leicester LE1 6EJ

- 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 20181148, dated 18 May 2018, was refused by notice dated 3 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.

Procedural Matters

2. 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.
3. 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

4. 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.

5. With regard to appeal B, the main issue is the effect of the proposed advertisement on visual amenity.

Reasons

Background

6. The appeal site comprises a section of pavement along Horsefair Street, near to Market Place Approach in Leicester City Centre. The site is within the Granby Street Conservation Area (CA) and is also outside a Grade II Listed building located on the corner of Horsefair Street and Granby Street which is occupied by NatWest bank ('the NatWest building').
7. 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

8. The CA is centred along Granby Street and its significance is derived from its high-quality architecture and townscape. This includes the NatWest building, a predominantly three-storey property in an Italianate style, which is Listed for its architectural quality. Furthermore, the absence of bulky street furniture in the public realm along the frontages of the NatWest building, contribute positively to the significance of the CA and preserve the setting of the Listed building.
9. However, the smart hub is relatively utilitarian and bulky, especially due to its wide base and monolithic form. In particular, it would appear dominant in comparison to the nearby signposts and along with these would also introduce visual clutter. Moreover, the smart hub would be located along a section of pavement which projects significantly from the adjacent building line and therefore would be viewed as a large and overtly prominent structure, particularly against the backdrop of the NatWest building.
10. Therefore, the proposal would detract from the quality of the public realm and the character and appearance of the area. This would be harmful to the setting of the Listed building and the significance of the CA. I attach considerable importance and weight to the desirability of avoiding any such harmful effects in accordance with sections s66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
11. The harm the proposal would cause to the significance of the CA and the setting of the Listed building would be less than substantial. Paragraph 196 of the Framework states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use.
12. Having special regard to the desirability of conserving heritage assets. As set out in the Framework³ that despite finding the harm to be less than substantial,

¹ As set out in the submitted Planning Statement

² Appendix E -Appellants Statement of Case

³ Paragraph 193

I still attach significant weight to this. Such harm can be outweighed by public benefits. However, the benefits in this instance⁴, in particular from the single Smart Hub would be limited and do not outweigh the less than substantial harm that I have identified.

13. 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. I also find conflict with Policy CS18 of the CS which seeks opportunities to enhance the historic environment including the character and setting of designated and other heritage assets, and the public realm. Furthermore, the proposal would not comply with the Framework, which amongst other things seeks well designed places where development is sympathetic to the local character, and the protection of heritage assets.

Highway safety

14. Although the site is within a relatively wide section of footway, the NatWest building accommodates a number of automated teller machines (ATM) adjacent to the site, the use of the ATM's leads to customers congregating around them and limiting access along the pavement. The introduction of the smart hub and its use would further limit access along this section of pavement. The reduction in width would create an obstacle and pinch-point that would impede pedestrian flow with regard to convenience and safety. Therefore, the proposal would have an adverse effect upon on highway safety.
15. Accordingly, in regard to appeal A the proposal would conflict with Policies CS03 and CS14 of the CS, which amongst other things 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 fail to accord with the Framework, in so far as it seeks development that creates places that are safe and accessible.

Visual amenity

16. The proposed structure would be in a commercial area. However, the existing signage within the CA and on the NatWest building is largely subtle and incorporated into well-designed frontages, with limited or no illumination. As such existing advertisements complement the area.
17. 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. Moreover, it would be divorced from other advertisements. Consequently, the proposal would appear incongruous and would be out of character with its context.
18. There is a 6-sheet display further along Horsefair Street. This however is different in design, located closer to adjacent buildings which is not listed or in the CA. Therefore, this is not comparable to the proposal and does not lend support to the appeal scheme.
19. Based on the foregoing reasons, the proposed advertisement would harm the visual amenity of the area, which includes the CA and the adjacent Grade II

⁴ Appendix E -Appellants Statement of Case

Listed building. Consequently, in regard to appeal B, the proposed advertisement would fail to accord with paragraphs 127 and 132 of the Framework, which require development to be sympathetic to the local area, including in respect of amenity.

20. In accordance with the Regulations, I have also taken into account the provision of the development plan so far as it is material. To this end, the proposal would not accord with Policies CS03 of the CS, which requires well designed development that contributes positively to the character and appearance of the built environment, and CS18 of the CS which seeks opportunities to enhance the historic environment including the character and setting of designated and other heritage assets, and the public realm.

Other Matters

Appeals A and B

21. In respect of design, the appellant has referred to an appeal decision⁵ 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.
22. 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.
23. 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 schemes. 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.
24. 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.
25. 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.
26. 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

⁵ Appellant's Statement of Case- Appendix I, Appeal Decision Reference 2017/A0237 & 2017/A0234

installations or inhibit competition. Nonetheless, such considerations are not without regard to the Framework as a whole.

27. The proposal would deliver some public benefits. However, these benefits would not outweigh the harm identified to the character and appearance, highway safety and the visual amenity of the area.

Conclusion

28. For the above reasons appeals A and B are dismissed.

M Aqbal

INSPECTOR