



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/18/3217267

Pavement to the south of 43-47 High Street, Leicester LE1 4EP

- 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 20181137, 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/18/3217268

Pavement to the south of 43-47 High Street, Leicester LE1 4EP

- 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 20181138, 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.

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 within 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 part of a wide pedestrianised area towards the centre of High Street, which forms one of the main shopping thoroughfares in Leicester City Centre where the commercial character prevails. The site is also within the High Street Conservation Area (CA).
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 High Street and the significance of this is derived from the high-quality architecture and townscape. This is also complemented by the public realm including the pedestrianised space along High Street.
9. Within the pedestrianised space the existing street furniture which includes low-lying seating, bicycle-stands along with slender lighting columns and tree planting are carefully arranged to create distinct and verdant 'street furniture zones' which on the ground are delineated with different surfacing and edging materials. These zones also accommodate more substantial elements of street furniture such as BT InLink devices and 6-sheet display panels. However, these larger elements are generally limited to one per zone. This orderly arrangement of street furniture creates an uncluttered and quality public realm which along with the nearby buildings, positively contributes to the character and appearance of the area and the significance of the CA.
10. 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 High Street.
11. The proposal would have a significant detrimental effect on the public realm, the character and appearance of the area and the CA, thereby harming its significance. I attach considerable importance and weight to the desirability of avoiding any such harmful effect in accordance with section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
12. The harm the proposal would cause to the significance of the CA 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

¹ As set out in the submitted Planning Statement

² Appendix E – Appellant's Statement of Case

asset, this harm should be weighed against the public benefits of the proposal, where appropriate, securing its optimum viable use.

13. Having special regard to the desirability of conserving the heritage asset. As set out in the Framework³ that despite finding the harm to be less than substantial, 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.
14. 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

15. 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 High Street. The proposal would therefore have no harmful effect upon highway safety with regard to the free-flow of pedestrian movements.
16. Accordingly, in regard to appeal A the proposal would not be in conflict with Policies CS03 and CS14 of the CS. These require that developments meet the highest standards of accessibility and support the provision of pedestrian routes, cycle routes and infrastructure to provide good access around the city. The proposal would also accord with the Framework, in so much as it seeks development that creates places that are safe and accessible.

Visual amenity

17. The existing signage within the CA is largely subtle and incorporated into well-designed frontages, with no or limited illumination. Other advertisements incorporated in other devices and 6-sheet displays are less prevalent than other forms of street furniture along High Street. As such, advertisements here complement the area.
18. 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, the visual impact of the proposed advertisement would be exacerbated by its isolation from other advertisements. This along with the increase in visual clutter would harm the character and appearance of the area. The proposed advertisement would therefore be harmful to the visual amenity of the area and CA.

³ Paragraph 193

⁴ Appendix E-Appellant's Statement of Case

19. 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, 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 CS Policies CS03, which requires well designed development that contributes positively to the character and appearance of the built environment, and CS18 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 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.
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 and visual amenity of the area.

Conclusion

28. 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.

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

M Aqbal

INSPECTOR