



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/18/3217264

Pavement to the south of 40 Granby Street, Rutland Street, Leicester LE1 6FB

- 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 20181143, 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/18/3217266

Pavement to the south of 40 Granby Street, Rutland Street, Leicester LE1 6FB

- 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 20181144, 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 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 issues are the effect of the proposed advertisement on visual amenity and public safety.

Reasons

Background

6. The appeal site comprises a section of wide pavement on the south-western part of Rutland Street, a two-lane road which is crossed by Granby Street, south of the site. The site is within Leicester City Centre and the Granby 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 Granby Street and the significance of this is derived from the high-quality townscape and architecture. The largely decluttered public realm along this part of Rutland Street, between Granby Street and Charles Street also gives prominence to the buildings here and therefore complements the CA and contributes to its significance.
9. 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. Most notably, it would be located along a section of footway which projects significantly from the adjacent building line and therefore would be viewed as a large and overtly prominent and incongruous structure. Furthermore, in combination with the public bin and utilities cabinets it would also introduce a degree of visual clutter.
10. Consequently, and notwithstanding the lack of harm to the setting of any Listed buildings, the proposal would detract from the quality of the public realm and townscape to the detriment of 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.
11. 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 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 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

¹ As set out in the submitted Planning Statement

² Appendix E – Appellant's Statement of Case

³ Paragraph 193

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/public safety

14. Notwithstanding the siting of the proposed structure about 5m of unobstructed footway would be retained, this exceeds the average footway width along Rutland Street. The proposal would therefore not adversely affect the free-flow of pedestrian movements.
15. The site is located near to a pedestrian crossing point and a road junction. However, motorists and cyclists approaching the site along Rutland Street are required to slow down and give way at the junction with Granby Street, as are those approaching from Granby Street. The structure would be set back about 1.3m from the kerb edge which would ensure adequate inter visibility between pedestrians using the crossing and other road users. Any concerns over potential distraction associated with the advertisement could be addressed through the use of conditions to control visual effects and the timing of display changes. Taking into account the above factors and in the absence of any clear technical evidence to the contrary, I am satisfied that the proposal would give rise to any significant highway and public safety issues.
16. For the above reasons, I conclude that in terms of appeal A and appeal B, the proposal would not have an unacceptable impact on highway and public safety. The proposal would therefore accord with the Framework, which seeks development to provide for safe and suitable access for all users. Accordingly, in respect of appeal A, I find no 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.
17. In accordance with the Regulations, I have also taken into account the provision of the development plan so far as it is material to appeal B and based on the foregoing reasons find no conflict with CS Policy CS03.

Visual amenity

18. The proposed structure would be within a commercial area. However, the existing signage within the CA is largely subtle and incorporated into well-designed frontages, with limited or no illumination. As such existing advertisements make a positive contribution to the area.

⁴ Appendix E-Appellant's Statement of Case

19. In contrast, each proposed display panel would occupy a substantial part of the street hub, which I have already found to be of a substantial scale. 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, it would be divorced from other advertisements and for the reasons already given would be overtly prominent to the detriment of the character and appearance of the area.
20. I have noted the advertisements on the other side of the road to the site. These however are incorporated into a much larger bus shelter and located close to the adjacent building line and are therefore not as prominent.
21. Based on the foregoing reasons, the proposed advertisement would be harmful to the visual amenity of the area and CA. 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.
22. 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 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

23. 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.
24. 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.
25. 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.
26. 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

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

offer the removal of existing street furniture with a net loss of street furniture, this would have been a material benefit of those proposals.

27. 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.
28. 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.
29. 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

30. 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 CA. With regard to appeal B the lack of harm to public safety does not outweigh the identified adverse impact on visual amenity.
31. For the above reasons appeals A and B are dismissed.

M Aqbal

INSPECTOR