



Appeal Decisions

Site visit made on 7 September 2020 by Darren Ellis MPlan

Decision by Susan Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 November 2020

Appeal A Ref: APP/Q4625/W/20/3253809

o/s McDonalds, 48-66 High Street, Solihull, B91 3TB

- 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 Nathan Still on behalf of JCDecaux UK Limited against the decision of the Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/00468/PPFL, dated 27 February 2020, was refused by notice dated 15 April 2020.
 - The development proposed is the installation of electronic communication apparatus on the public footpath.
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Appeal B Ref: APP/Q4625/H/20/3253557

o/s McDonalds, 48-66 High Street, Solihull, B91 3TB

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Mr Nathan Still on behalf of JCDecaux UK Limited against the decision of the Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/00469/ADV, dated 27 February 2020, was refused by notice dated 15 April 2020.
 - The development proposed is the installation of electronic communication apparatus on the public footpath.
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Decisions

1. Appeals A and B are dismissed.

Appeal Procedure

2. The site visits were undertaken by an Appeal Planning Officer whose recommendations are set out below and to which the Inspector has had regard before deciding the appeals.

Procedural Matters

3. Both proposals are described as the installation of electronic communication apparatus on the public footpath. Appeal A relates to the installation of the communication hub unit while Appeal B relates to the installation of an advertisement panel on the unit. I have dealt with the appeals on this basis.
 4. I note that no indication has been provided as to the precise orientation of the communication unit. As such, I have determined the appeals with reference to the identified location on the appellant's submitted location plans.
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Main Issues

5. The main issues are:

- In each case, whether the proposal preserves or enhances the character or appearance of the Solihull Town Centre Conservation Area (CA) and the effect of the proposal on the setting of a listed building; and
- In each case, the effect of the proposal on the safe and efficient operation of the highway.

Reasons for the Recommendation

Appeal A – communication hub unit

6. The appeal site is located in the pedestrianised High Street, and is within the CA. High Street houses several historic buildings, including several listed buildings towards the south-eastern end of the street, and these contribute towards the significance of the CA which lies in its history and in the appearance and quality of the buildings.
7. The Council has identified several buildings near the appeal site, including 15-41, 45-53, 57 73 and 93 High Street as non-designated heritage assets as a result of their historical significance with regards to the development of the High Street over time. The proposed communication unit would be within the setting of these non-designated heritage assets.
8. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Section 66 (1) of the Act requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses.
9. The site lies within an area where town centre uses prevail. Nevertheless, the pedestrianised area has an open, quiet character. the pavement close to the site hosts trees, bins, seating and street lighting. While the style of the communication unit would be plain and simple, the addition of the mass of the proposed approximately 2.6m high unit to the aforementioned elements would cause a cluttered appearance to the pavement. Moreover, the modern design, size and scale of the unit would be discordant with the appearance of eth historic buildings. Therefore, the proposed communication unit would fail to preserve or enhance the character or appearance of the CA and would detract from the setting of the non-designated heritage assets.
10. The nearest listed buildings at 116-120, 124 and 126 High Street are visible from the appeal site, and therefore the proposed communication unit would be within the setting of the listed buildings. However, as a result of the limited scale of the development and the considerable distance between the listed buildings and the appeal site, the proposed communication unit would preserve the setting of the listed buildings.
11. The proposed communication unit would nevertheless be contrary to Policy P15 of the Solihull Local Plan (adopted December 2013) (LP) which seeks, amongst other things, for developments to conserve and enhance local character and streetscape quality, and to create uncluttered streets and public spaces. The

proposed communication unit would also conflict with Policy P16 of the LP, which requires development to preserve or enhance heritage assets, and Section 72 (1) of the Act.

12. During the time of my site visit the pavement was busy with pedestrians and shoppers, although given the current social distancing measures that are in place it is possible that the number of pedestrians was lower than normal. However, given the substantial width of pavement around the site the proposed communication unit would not cause any significant obstruction to pedestrians and therefore would not cause any harm to highway safety.
13. In that respect the proposal therefore accords with Policy P8 of the LP, which requires development to not cause a reduction in safety for any users.
14. The proposed communication unit would provide benefits including free phone calls to emergency numbers and helplines, web browsing and free WiFi. The submitted technical specification for the unit shows a defibrillator is provided on the unit, although the planning and appeal statements do not refer to a defibrillator. However, these benefits would not outweigh the harm that would be caused to the character and appearance of the area.

Appeal B - advertisement

15. The appellant seeks advertisement consent for the installation of a digital advertising display on the communication hub unit proposed above. Paragraph 132 of the National Planning Policy Framework (the Framework) states that the quality and character of places can suffer when advertisements are poorly sited and designed, and that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
16. A range of advertisements currently exists in the vicinity of the appeal site, including window signs, fascia signs, projecting signs and freestanding advertisements for shops in the High Street. The proposed digital screen would be at odds with the nature of the existing advertising, as there are no digital screens currently near the site, and it would be a garish addition to the street scene. Furthermore, the proposed advertisement together with the existing levels of advertising would cumulatively result in a proliferation of advertisements in the area. As a result the proposed digital unit would cause harm to the visual amenity of the area, would fail to preserve or enhance the character or appearance of the CA, and would be detrimental to the setting of the non-designated heritage assets.
17. The proposed advertisement would be a considerable distance from the nearest listed buildings, and as a result would preserve the setting of the listed buildings.
18. The proposed advertisement would form part of the communication hub unit proposed in Appeal A above and would not be a separate structure. Therefore, for the reasons described in Appeal A, the proposed advertisement would not cause a significant obstruction to users of the footpath and consequently would not cause any harm to highway safety.
19. For these reasons, while the proposal would not cause harm to highway safety or to the setting of the listed buildings, I conclude that the advertisement would cause harm to the visual amenity of the area and as such would be contrary to paragraph 132 of the Framework. The proposal would also fail to

preserve or enhance the character or appearance of the CA, and therefore would fail to comply with Section 72 (1) of the Act.

20. The Council has drawn my attention to Policies P8, P15 and P16 of the LP. Policy P8 requires development to not cause a reduction in safety for any users while Policy P15 seeks, amongst other things, for developments to conserve and enhance local character and streetscape quality, and to create uncluttered streets and public spaces. Policy P16 requires development to preserve or enhance heritage assets. However, whilst I have taken these policies into account as material considerations, the powers to control advertisements under the Regulations may be exercised only in the interests of amenity and public safety. Consequently, in my determination of this appeal the Council's policies are not, in themselves, decisive.

Conclusion and Recommendation

21. As detailed above both of the appeals would cause harm to the character and appearance of the area. For the reasons given above and having had regard to all other matters raised, I recommend that appeals A and B should be dismissed.

D Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis appeals A and B are dismissed.

S Ashworth

INSPECTOR