

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/20/3253810

o/s TKMaxx, 4-8 Mell Square, Solihull, B91 3AY

- 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/2020/00470/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/20/3253558

o/s TKMaxx, 4-8 Mell Square, Solihull, B91 3AY

- 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/2020/00471/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, the effect of the proposal on the character and appearance of the area, 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 a quiet pedestrianised shopping precinct. The pavement close to the site hosts trees, bins, seating, street lighting, an information board, bollards and an InLink communication unit that includes digital advertising screens. At the time of my site visit one of the bollards adjacent to the site was covered by an advertising shroud.
7. While I recognise that the style of the communication unit would be plain and simple, a large amount of street furniture and other elements are already present around the appeal site. Consequently, the addition of the mass of the proposed approximately 2.6m high unit would cumulatively result in a cluttered appearance to the pavement. Therefore, the proposed communication unit would harm the character and appearance of the area.
8. The proposed communication unit would therefore 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.
9. During the time of my site visit, the pavement was moderately busy with pedestrians and shoppers, and given the current social distancing measures that are in place it is possible that the number of pedestrians was lower than normal. The pavement around the appeal site is wide. The proposed communication unit would be sited immediately adjacent to the current entrance to the queuing system to enter TKMaxx, however this system is temporary. In this position I am satisfied that the communication unit would not cause any significant obstruction to pedestrians given the substantial amount of pavement around the site, and therefore would not cause any harm to highway safety.
10. In this respect, the proposal accords with Policy P8 of the LP, which requires development to not cause a reduction in safety for any users.
11. 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

12. 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.
13. In the vicinity of the appeal site are a range of advertisements, including window signs, fascia signs, projecting signs and a shroud around a bollard next to the site. At the far corner of TKMaxx there is an InLink communications unit which has a digital advertising screen on both sides, which are the only digital screens in the vicinity of the site. The proposed digital advertisement would be larger than the digital screens on the InLink unit, and consequently the proposed advertisement would be at odds with the nature of the existing advertising in the immediate vicinity and would be a garish addition to the street scene. Furthermore, the proposed advertisement together with the existing levels of advertising would result in a cumulative excess of advertisements in the area. As a result the proposed digital unit would cause harm to the visual amenity of the area.
14. 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.
15. For these reasons, while the proposal would not cause harm to highway safety, 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 Council has drawn my attention to Policies P8 and P15 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. 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

16. 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

17. 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