
Appeal Decisions

Site visit made on 13 October 2020

by Simon Warder BSc(Hons) MA (DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 November 2020

Appeal A Ref: APP/U2235/W/20/3254404
OS CEX, 84 Week Street, Maidstone ME14 1RJ

- 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 JC Decaux (UK) Limited against the decision of Maidstone Borough Council.
 - The application Ref 20/500439/FULL, dated 29 January 2020, was refused by notice dated 1 May 2020.
 - The development proposed is described as 'the installation of a public payphone that will include an interactive public information screen and an illuminated sequential display. The unit is a communication hub that will enable the public to access online facilities and functions, including wayfinding, at no cost to the user. The hub will also be part of a Wi-Fi network that will facilitate access across the City.'
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Appeal B Ref: APP/U2235/H/20/3254319
OS CEX, 84 Week Street, Maidstone ME14 1RJ

- 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 JC Decaux (UK) Limited against the decision of Maidstone Borough Council.
 - The application Ref 20/500440/ADV, dated 29 January 2020, was refused by notice dated 7 May 2020.
 - The advertisement proposed is described as 'the installation of a public payphone that will include an interactive public information screen and an illuminated sequential display. The unit is a communication hub that will enable the public to access online facilities and functions, including wayfinding, at no cost to the user. The hub will also be part of a Wi-Fi network that will facilitate access across the City.'
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Main Issues

3. The main issues with regard to Appeal A are the effects of the proposal on:
 - the character and appearance of the streetscene and the settings of the Chillington House and Maidstone Town Centre Conservation Areas and the listed buildings at 12-16 St Faith's Street;
 - pedestrian safety.
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4. The main issue with regard to Appeal B is the effect of the advertisement on the visual amenity of the area and the settings of the Chillington House and Maidstone Town Centre Conservation Areas and the listed buildings at 12-16 St Faith's Street.

Reasons

Character and appearance and visual amenity

5. The proposed 'hub' would be some 2.63m tall and 1.34m wide in a simple, rectangular shape and finished in 'metal chain grey'. Its north-facing side would contain an advertisement screen measuring 1895mm by 1065mm displaying a sequence of static images. The hub would be located at the junction of Week Street and St Faith's Street in a busy part of the town centre.
6. The area to the west of the proposed location of the hub is within the Chillington House Conservation Area (CA). This CA is centred on Brenchley Gardens and the Maidstone Museum, although it also includes part of St Faith's Street and there are direct views from this part of the heritage asset to the appeal site. The timber framed Grade II listed buildings at 12-16 St Faith's Street sit between the CA and the hub location. The edge of the Maidstone Town Centre Conservation Area is a short distance to the south of the hub. This CA takes in the historic core of the town centre and contains a high concentration of historic buildings which form strong street frontages.
7. Although the area is essentially commercial in character and contains a mix of modern and more traditional buildings, advertising is fairly restrained in its size and siting. The area has also undergone recent improvements to the paving and street furniture which has given the public realm a coherent and uncluttered appearance. However, there are existing public telephones short distances from the proposed hub location along Week Street.
8. The proposed hub would not be well-related to existing street furniture and would not align with the nearby street tree. Nor would it be well-related to the pattern and layout of the recently upgraded paving. As such, it would add to the clutter in the streetscene. The form and appearance of the hub make little reference to nearby buildings. The appellant argues that the height of the hub would be less than a standard shopfront. However, such shopfronts are generally integrated into a larger building, whereas the proposed hub would be a freestanding structure conspicuously located within a busy public thoroughfare.
9. By virtue of its height and width therefore, the hub would be an assertive and intrusive feature in the streetscene. This would be exacerbated by the advertisement screen in views from the north. The hub would be very prominent in views along Week Street and St Faith's Street. As such, it would be conspicuous in the views from the northern edge of the Maidstone Town Centre CA, the eastern edge of the Chillington House CA and the listed buildings. The views from the Chillington House CA and the listed buildings in particular form part of the settings of those heritage assets and contribute to their significance by relating them to the wider town centre. The incongruous appearance, scale and siting of the proposed hub would undermine that relationship.
10. Consequently, I find that the proposed hub would have a harmful effect on the character and appearance of the area and the settings of the Chillington House CA and the listed buildings at 12-16 St Faith's Street. As such, it would conflict with

Policies DM1 and DM4 of the Maidstone Borough Local Plan 2017 (LP). Amongst other things, these policies require development to respond positively to the local and historic character of the area, create high quality public realm and conserve heritage assets and their settings. Nor would the proposal accord with LP Policy DM18 which requires the size, design, positioning, materials, colour and method of illumination of signage proposals to not be detrimental to the character and appearance of the area.

11. The appellant argues that the proposed hub would be accessible and constructed using sustainable materials, Nevertheless, those matters do not overcome my concerns regarding its effect on the character and appearance of the area. The appellant has also referred to National Planning Policy Framework (the Framework) paragraph 131 which deals with outstanding or innovative design. However, I am not persuaded that the design of the proposed hub meets the standard necessary to benefit from that provision.
12. The proposal would not accord with Framework paragraphs 192 and 193 which require the desirability of sustaining and enhancing the significance of heritage assets to be taken into account and great weight to be attached to their conservation. The harm to the heritage assets would be less than substantial and Framework paragraph 196 requires this harm to be weighed against the public benefits of the proposal. I do this in the planning balance below. The proposal would not accord with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special attention to be paid to the desirability of preserving the settings of listed buildings.
13. Having regard to its size and height the proposed advertisement would be an intrusive feature in the streetscene. Since there are few other freestanding advertisements in the area, it would also be incongruous. As such, it would have a harmful effect on visual amenity and the settings of the nearby heritage assets. I recognise that the level of night-time illumination of the screen would fall within the guidelines recommended by the Institute of Lighting Professionals and that this could be controlled by condition. Whilst this aspect of the proposal does not add to the concerns set out above, nor does it overcome them.
14. Consequently, the proposed advertisement would not accord with Framework paragraph 132 which advises that the quality and character of places can suffer when advertisements are poorly sited and designed. I have taken into account Policies DM1, DM4 and DM18 of the LP to the extent that they are material to the advertisement proposal. Given that I have concluded that the proposed advertisement would harm amenity, it would conflict with these policies.

Pedestrian safety

15. The proposed hub would be located in a busy part of the town centre with high pedestrian flows. The Council states that the proposal would have the effect of directing pedestrian flows towards the Week Street/St Faith's Street T-junction. However, notwithstanding that the hub would not be aligned with nearby street furniture, Week Street is broader here than in places to the north and south. Consequently, the remaining space would still allow for a considerable volume of pedestrian movement without undue conflict with the limited number of vehicles using the pedestrianised area.
16. Therefore, I find that the proposed hub would not pose an unacceptable risk to the safety of drivers or pedestrians. As such, it would not conflict with LP Policy DM1

insofar as it requires proposals to safely accommodate vehicular and pedestrian movement. Nor would it be contrary to the aims of Framework paragraphs 91 or 102 which seek to ensure safe and accessible places and patterns of movement.

17. The Council found that the proposed advertisement would not pose a risk to public safety and I see no reason to disagree.

Planning balance

18. Paragraph 112 of the Framework supports the expansion of electronic communications networks and the appellant has drawn my attention to the Government's 'Statement of Strategic Priorities for telecommunications, the management of radio spectrum, and postal services'. However, these policies are primarily concerned with improving next generation mobile technology and the availability of full fibre connectivity. Whilst the appeal proposal would provide a public phone use and other functions including access to the internet and Council webpages and wayfinding, it is not clear how the facility would support the primary aims of the cited policies.
19. Moreover, although I have no reason to doubt that similar facilities have been provided in other places as described by the appellant, no firm evidence has been provided to show that there is a particular need in Maidstone town centre. I have already noted the presence of other public telephones close to the appeal site. The appellant states that the proposal would complement the existing public WiFi service, but there is nothing to indicate that the service is deficient at present.
20. Therefore, I give limited weight to the public benefits of the proposed hub. The appellant has also referred to the advantages of digital advertising. However, the Regulations are clear that only amenity and public safety can be taken into account in the consideration of advertisement proposals.
21. Applying the test at Framework paragraph 196 therefore, I find that the public benefits of the proposal do not outweigh the less than substantial harm to the heritage assets which I have identified.

Other matters

22. The appellant's submissions set out the experience and capabilities of JC Decaux. Although I have no reason to doubt these credentials, my decision is based on the planning merits of the appeal proposals.

Conclusions

23. Whilst I have found that the proposed hub would not pose an unacceptable risk to safety, that does not overcome my concerns regarding harm to the character and appearance of the area and nearby heritage assets. For that reason, Appeal A should be dismissed.
24. For the reasons set out above in relation to visual amenity, Appeal B should be dismissed.

Simon Warder

INSPECTOR