
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/20/3254402

Adj Sue Ryder 96-98 Week Street, Maidstone ME14 1RL

- 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 20/500430/FULL, dated 29 January 2020, was refused by notice dated 4 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/20/3254318

Adj Sue Ryder, 96-98 Week Street, Maidstone ME14 1RL

- 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 20/500431/ADV, dated 29 January 2020, was refused by notice dated 1 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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Decisions

1. Appeal A is allowed and planning permission is granted for the installation of a public payphone including an interactive public information screen and an illuminated sequential display adjacent to 96-98 Week Street, Maidstone ME14 1RL in accordance with the terms of the application, ref 20/500430/FULL, dated 29 January 2020 subject to the conditions set out in the attached schedule.
 2. Appeal B is allowed and express consent is granted for an illuminated sequential display integrated within a public payphone as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached schedule.
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Preliminary Matter

3. The descriptions of development given in the banner headings above are taken from the application forms. However, they include explanatory phrases which do not amount to acts of development. These phrases have, therefore, been omitted from the descriptions given in the formal decisions in paragraphs 1 and 2.

Main Issues

4. The main issues with regard to Appeal A are the effects of the proposal on:
 - the character and appearance of the streetscene;
 - pedestrian safety.
5. The main issue with regard to Appeal B is the effect of the advertisement on the visual amenity of the area.

Reasons

Character and appearance and visual amenity

6. 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 northern end of Week Street close to the junction with Brewer Street.
7. The area is essentially commercial in character and modern buildings of modest architectural merit prevail. Nevertheless, advertising is fairly limited in extent and largely confined to shopfronts and small projecting signs. The area has also undergone recent improvements to the paving and street furniture which has given the public realm a coherent and fairly uncluttered appearance.
8. The hub would be sited close to a group of recently installed street furniture including seating, a bin and a street tree. Although it would not align with those features, both the hub and the existing street furniture would be set within a recess in the street frontage. This would limit the extent of views of the hub from the south. From the north it would be seen against the backdrop of the blank projecting wall of a McDonald's restaurant. This, together with the modest architectural quality of the immediately adjoining buildings, would overcome my concern that the form and appearance of the hub make little reference to their surroundings. Notwithstanding its height and width therefore, the hub would not be a discordant feature in the streetscene.
9. There is nothing to suggest that this part of the town centre is particularly sensitive with regard to night-time lighting. The level of night-time illumination of the advertisement screen would fall within the guidelines recommended by the Institute of Lighting Professionals and that could be controlled by condition. Consequently, I find that the advertisement screen would not be harmful to the visual amenity of the area.
10. As such the proposals would not have a harmful effect on the character and appearance of the area. They would accord 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 and create a high quality public realm. The proposal would 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. 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 not harm amenity, it would not conflict with these policies. Nor would the proposed advertisement conflict with National Planning Policy Framework (the Framework) paragraph 132 which advises that the quality and character of places can suffer when advertisements are poorly sited and designed.

Pedestrian safety

12. The proposed hub would be located in a part of the town centre with reasonably high pedestrian flows, although it appears to be less busy than locations further south along Week Street. The Council states that the proposal would considerably reduce the width of the street and refers to the presence of external seating on the opposite side of Week Street. However, I have already noted that the proposed hub would be located in a recess in the street frontage and it would not narrow the overall width of the street more than the projecting wall of the McDonald's restaurant a short distance to the south. Therefore, I find that the proposed hub would not pose an unacceptable risk to the safety of 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.
13. The Council found that the proposed advertisement would not pose a risk to public safety and I see no reason to disagree.

Other matters

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

Conditions

16. Appeal A. The Council has suggested a list of three conditions in addition to the standard time limit. A condition specifying the approved plans is necessary in the interests of certainty. The approved plans specify the external materials of the proposed hub. Therefore, it is not necessary to impose a separate condition for materials. A condition dealing with the maintenance and management of the hub is necessary in the interests of public safety and visual amenity.
17. Appeal B. The Council's list of suggested conditions includes the standard conditions imposed under Regulation 14(a) and Schedule 2 of the Regulations. Since they are imposed under the Regulations, it is not necessary to repeat them in the decision. The formal decision above confirms that the consent is for five years from the date of this decision. The Council has also suggested a condition requiring the advertisement to be removed within five years of the date of the

consent. The reason given is that the condition is in accordance with Regulation 14 of the Regulations. Whilst the Regulation allows for the use of such a condition, it does not require it to be imposed. Based on my findings above, I see no amenity or public safety reason for the use of such a condition and, therefore, have not imposed it. Conditions specifying the level of illumination and the sequential static display of the advertisement are necessary to safeguard public safety and amenity.

Conclusions

18. For the reasons set out above, Appeal A should be allowed.

19. For the reasons set out above, Appeal B should be allowed.

Simon Warder

INSPECTOR

**Schedule of conditions attached to
Appeal Ref: APP/U2235/W/20/3254402
Adj Sue Ryder 96-98 Week Street, Maidstone ME14 1RL**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: OS Map Plan 1:200 Scale, Comms Hub Drawing No A/489467/Rev A and Technical Specification for Digital 86" Smart City Communication Hub.
- 3) The electronic communication apparatus hereby approved shall be kept and maintained in full working order in perpetuity, including the defibrillator, with the relevant emergency authorities notified of the availability and siting of the equipment and contact details of the owners and maintenance contractors of the apparatus provided on the equipment in the event of any concerns or damage to the apparatus.

**Schedule of conditions attached to
Appeal Ref: APP/U2235/H/20/3254318
Adj Sue Ryder 96-98 Week Street, Maidstone ME14 1RL**

- 1) The intensity of the illumination of the advertisement permitted by this consent shall be no greater than 300cd/m².
- 2) The illumination hereby permitted shall only display sequential static images.