



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/20/3254405

Adj 29 High Street, Maidstone ME14 1JF

- 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 20/500432/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/20/3254320

Adj 29 High Street, Maidstone ME14 1JF

- 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 20/500433/ADV, dated 29 January 2020, was refused by notice dated 4 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 Maidstone Town Centre Conservation Area and the nearby listed buildings;
 - 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 Maidstone Town Centre Conservation Area and the nearby listed buildings.

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 west-facing side would contain an advertisement screen measuring 1895mm by 1065mm displaying a sequence of static images. The hub would be located within High Street in a fairly busy part of the town centre.
6. The proposed location of the hub is within the Maidstone Town Centre Conservation Area and there are Grade II listed buildings at 31, 32, 33 and 35 High Street, 14-19 Middle Row as well as the cannon monument. 29 High Street is also locally listed. The Conservation Area takes in the historic core of the town centre and contains a high concentration of historic buildings which form strong street frontages. Given its proximity to the main frontages of the listed buildings the hub would also fall within their settings.
7. Although the area is essentially commercial in character and contains modern, as well as historic, buildings, advertising is limited in extent and 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 fairly uncluttered appearance.
8. Whilst the hub would be sited close to a bin and three cycle stands, it would not be particularly well-related to existing street furniture or to the pattern and layout of the recently upgraded paving. Therefore, it would add to the clutter in the streetscene. The form and appearance of the hub make little reference to nearby buildings, notwithstanding the presence of some modern glazed shopfronts. 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. The hub would be very prominent in views for a significant distance along High Street as well as from the public space on the south side of the road. In particular, it would sit in the foreground of the group of listed buildings at 31, 32, 33 and 35 High Street in views from the east. Despite some recent alterations, these narrow fronted, timber framed buildings reflect the medieval plots along the High Street and contribute to the significance of the Conservation Area. By virtue of its height and width, the hub would be an assertive and intrusive feature in the streetscene and in the settings of the listed buildings identified above. Moreover, its assertiveness would be exacerbated by the advertisement screen in views from the west.
10. Consequently, I find that the proposed hub would have a harmful effect on the character and appearance of the streetscene, the Conservation Area and the settings of the nearby listed buildings. 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 it 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 sections 72(1) or 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas and 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, the Conservation Area and the settings of the nearby listed buildings. 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 fairly busy part of the town centre. The Council's evidence on this matter (in its officer report for the planning application) appears to relate to another location. Whilst the hub would take up part of the width of the pavement, it would be located in a section where the pavement broadens out and the hub would be positioned to one side of the main pedestrian flow. Even with the hub installed, the remaining pavement at this point would be wider than the section immediately to the east. Although the hub would be located relatively close to the existing bin and cycle stands, I consider that there would be sufficient separation to avoid conflict between users of the existing and proposed facilities.
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. There are a number of public telephones and a map of the town centre and points of interest a relatively short distance from the proposed hub location at the junction of High Street and Week Street. 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