

Appeal Decisions

Site visit made on 5 September 2022

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2022

Appeal A Ref: APP/W0734/W/22/3300374

Footpath outside Iceland Supermarket, Linthorpe Road, Middlesbrough TS1 3QP

- 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 British Telecommunication PLC against the decision of Middlesbrough Council.
 - The application Ref 22/0016/FUL, dated 20 December 2021, was refused by notice dated 11 April 2022.
 - The development proposed is installation of a 'Street Hub'.
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Appeal B Ref: APP/W0734/H/22/3300373

Footpath outside Iceland Supermarket, Linthorpe Road, Middlesbrough TS1 3QP

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by British Telecommunication PLC against the decision of Middlesbrough Council.
 - The application Ref 22/0007/ADV, dated 20 December 2021, was refused by notice dated 11 April 2022.
 - The advertisements proposed are two digital 75 inch LCD display screens, one on each side of the proposed Street Hub unit.
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Decisions

1. Appeal A and Appeal B are both dismissed.

Preliminary Matters

2. The two appeals relate to the same site and to each other. I have considered each on its individual merits, but as they are intrinsically linked and raise similar issues, I have combined these cases in a single decision letter.
3. The Regulations regarding advertisements stipulate that control may only be exercised in the interests of 'amenity' and 'public safety'. With respect to appeal B, the development plan policies and supplementary planning document referred to by the Council are not determinative, but I have taken these into account as a material consideration.

Main Issues

4. The main issues in both Appeals A and B are the effect of the proposals on:
 - amenity and the character and appearance of the area; and
 - highway and public safety.

Reasons

Highway and public safety

5. I saw that this part of Linthorpe Road experiences a steady flow of vehicular and pedestrian traffic commensurate with its town centre location, and also includes a cycleway that switches between on and off the main carriageway.
6. The Street Hub would be located on the site of an existing telephone box. However, unlike the existing telephone box, the Street Hub would contain doubled sided digital advertisement screens that would face the oncoming traffic in close proximity to a signalised pedestrian crossing. Although the images would be static, their scale, digital nature, and changing at regular intervals, would have the potential to attract the prolonged attention of some road users. Even momentary distraction could reduce the time to assess potential risks such as stopping vehicles, merging bicycles, or crossing pedestrians, thereby increasing the risk of an accident in a location where careful highway observation is necessary. Conditions to control the nature of the image transition and industry standard luminance would not sufficiently mitigate for the distracting nature of the display in this particular location.
7. Indeed, the Planning Practice Guidance advises that proposed advertisements at points where drivers need to take more care are more likely to affect public safety. Furthermore, it advises that one of the main types of advertisement which may cause danger to road users are those which are illuminated, and those subject to frequent changes of the display.
8. As the appellant notes, there are a number of bus stops along Linthorpe Road which have illuminated advertising panels similarly facing the traffic. However, none that I observed were in comparable locations at pedestrian crossings.
9. For these reasons, the proposals could be harmful to highway and public safety. Thus, there is conflict with the highway safety aims of Policy DC1 of the Middlesbrough Local Development Framework Core Strategy 2008 (CS).

Character and appearance/amenity

10. The Street Hub would be taller and wider than the existing telephone box, but not significantly so, and its overall footprint within the wide pavement would be smaller. In addition, with the removal of the existing telephone box there would be no increase in the amount of street furniture in this location and therefore no additional cluttering effect or disruption of pedestrian movements.
11. Whilst the dynamic nature of the digital advertisement panels would make the Street Hub stand out more prominently, the area has a strong commercial character and there are numerous advertisements in the vicinity, including similar forms of advertising on bus stops and other large format signage. As such, neither the Street Hub, nor the digital displays, would be obtrusive elements in the streetscene.
12. Overall, and mindful of what already exists at the site, I am content that the Street Hub could be assimilated into this street scene without causing material harm to the visual amenity and the character and appearance of the area. The proposals therefore comply with Policies DC1 and CS13 of the CS, in so far as they seek development that is compatible with its context, and which safeguards the character and attractiveness of the shopping areas. There is

also compliance with the aims of Middlesbrough's Urban Design Supplementary Planning Document (2013) to avoid over cluttering of the public realm. However, the absence of harm in this regard is a neutral consideration.

13. The Council's refusal notice also cites conflict with CS Policy REG20, but as this policy appears to relate to new town centre uses it is not directly relevant to the appeal scheme and I have not had regard to it.

Other Considerations

14. I acknowledge the public benefits highlighted by the appellant, including ultrafast wi-fi access, direct emergency calls, public information displays, rapid charging, and also that the hub would be powered by green energy. I also recognise the economic and social importance of advanced, high quality and reliable telecommunications, and the support in the National Planning Policy Framework for the expansion of electronic communications networks. However, since there would be other Street Hubs as part of the wider strategic project in the town, this limits the weight I afford to the public benefits arising from this development, which in practical terms would only be modest. Furthermore, it has not been demonstrated that this is the only location and manner in which the development could take place.
15. The benefits of removing the existing telephone box would be negated by the harm arising from the replacement structure so this is not a factor which weighs in favour of the scheme. Furthermore, whilst the appellant intends to remove a number of other telephone boxes as part of its wider project in the town, this is not mitigation for the highway safety harm that would arise in this location, and in any event, there is no mechanism before me to secure their removal.
16. My attention has been drawn to appeal decisions that relate to similar proposals. However, they are in different areas and with their own unique contexts so have limited bearing on my consideration of this appeal.

Conclusion

17. As set out above, I have found that the proposals could be harmful to highway and public safety, and in relation to appeal A, would conflict with the development plan in this regard. This harm outweighs any public benefits that would arise. Accordingly, both Appeal A and Appeal B should be dismissed.

A Caines

INSPECTOR