



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/22/3300509

Footpath outside Budgens Grocers, Linthorpe Road, Middlesbrough TS1 3RF

- 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 Telecommunications PLC against the decision of Middlesbrough Council.
 - The application Ref 22/0019/FUL, dated 20 December 2021, was refused by notice dated 11 April 2022.
 - The development proposed is removal of existing BT phone box and installation of a proposed replacement BT Street Hub.
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Appeal B Ref: APP/W0734/H/22/3300504

Footpath outside Budgens Grocers, Linthorpe Road, Middlesbrough TS1 3RF

- 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 Telecommunications PLC against the decision of Middlesbrough Council.
 - The application Ref 22/0010/ADV, dated 20 December 2021, was refused by notice dated 11 April 2022.
 - The advertisement proposed is two digital 75 inch LCD display screen, 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 proximity to Teeside University. It also includes a cycleway within the main carriageway.
6. The Street Hub would be located close to a signalised four-way junction where it would be a prominent feature in drivers' field of view on the approach from the north. Even though the advertisement images would be static, their scale, illuminated digital nature, and changing at regular intervals, would have the potential to attract the prolonged attention of some drivers. The additional visual information, resulting in even momentary distraction on the approach to the junction, would reduce the time to assess potential risks such as stopping vehicles, merging bicycles, or crossing pedestrians, thereby increasing the risk of an accident in this location where a high degree of concentration on the road 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 busy road junctions.
9. In terms of the pedestrian environment, I acknowledge that this section of the pavement is relatively wide, such that a minimum recommended footpath width could be maintained at this point. Nonetheless, there is an enclosed outdoor seating area just a short distance to the south, which together with a utility box, significantly impedes pedestrian flow at present and creates a desire line down the edge of the pavement through the appeal site. There is also a cash machine close to the site which is likely to further influence pedestrian flows when it is in use.
10. Placing the Street Hub directly on the line where pedestrians are channelled would be likely to further impair the free flow of pedestrian movement, notwithstanding the width of the pavement. In addition, it would create a sizeable obstruction to views along the pavement and hinder intervisibility of oncoming pedestrian traffic at a busy location. Consequently, the proposals would also have an adverse effect on the safe or efficient movement of pedestrians at this location.
11. For all 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

12. The streetscene in the vicinity is already heavily cluttered by an array of bollards, street lighting columns, cctv tower, traffic lights, utility boxes, litter bins, telephone box, and outdoor seating areas.
13. Whilst the proposals would result in the removal of the existing telephone box which is located on the opposite side of the four-way junction, the proposed Street Hub would be more prominently located towards the edge of the kerb and would be a more sizeable and eye-catching addition within this section of pavement. By virtue of its size, siting, and the digital illumination of its advertisements, the Street Hub would only serve to add to an already disorderly and cluttered streetscene in this part of Linthorpe Road, harming its character and appearance. As such, even taking into account the busy commercial surroundings and other bus stop advertising along the road, the Street Hub and its digital displays would be an obtrusive addition to the streetscene at this particular location.
14. Therefore, the proposals would significantly harm the visual amenity and the character and appearance of the area. Thus, there is conflict 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 conflict with the aims of Middlesbrough's Urban Design Supplementary Planning Document 2013 to avoid cluttering of the public realm.
15. 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

16. 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.
17. 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 harm that would arise in this location, and in any event, there is no mechanism before me to secure their removal.
18. 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

19. I have found that the proposals would be harmful to highway and public safety, as well as to the visual amenity and the character and appearance of the area. In relation to Appeal A, there would also be conflict with the development plan in these regards. This harm outweighs any public benefits that would arise. Accordingly, both Appeal A and Appeal B should be dismissed.

A Caines

INSPECTOR