



Appeal Decisions

Site visit made on 11 October 2022

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 November 2022

Appeal A Ref: APP/B1605/W/22/3298563

Pavement O/S The SOHO Coffee Co., Unit B, The Brewery Quarter, High Street, Cheltenham GL50 3HH

- 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 BT Telecommunications Plc against the decision of Cheltenham Borough Council.
 - The application Ref 22/00324/FUL, is dated 17 February 2022 was refused by notice dated 4 April 2022.
 - The development proposed is described as 'Proposed installation of 1no. new BT Street Hub, incorporating no.2 digital 75" LCD advert screens, plus the removal of associated BT kiosk(s).'
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Appeal B Ref: APP/B1605/H/22/3298565

Pavement O/S The SOHO Coffee Co., Unit B, The Brewery Quarter, High Street, Cheltenham, GL50 3HH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the Regulations) against a refusal to grant express consent.
 - The appeal is made by BT Telecommunications Plc against the decision of Cheltenham Borough Council.
 - The application Ref 22/00324/ADV, dated 17 February 2022 was refused by notice dated 4 April 2022.
 - The advertisement proposed is described as 'Proposed installation of 1no. new BT Street Hub, incorporating no.2 digital 75" LCD advert screens, plus the removal of associated BT kiosk(s).'
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Decision

1. Appeal A and B are dismissed.

Preliminary Matters

2. Appeal A relates to a refusal for planning permission, and Appeal B is in respect to the Council's refusal to grant consent for the advertisements. I have considered each proposal on its individual merits. To avoid duplication, I have dealt with the two schemes together, except where otherwise indicated.
3. As the proposal is in a conservation area and close to a listed building, I have in relation to Appeal A, been mindful of the duties set out in Sections 66(1) and 72(1) and of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires in respect to a listed building or its setting, special regard to the desirability of preserving the building or its setting or any features of special

architectural or historic interest which it possesses, and when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

4. In respect of Appeal B, powers under the Regulations¹ to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. While not in themselves decisive in Appeal B, I have, where relevant, taken into account policies cited in this appeal as a material consideration.

Main Issues

5. In Appeal A, the main issue is whether the proposal would preserve or enhance the character or appearance of the Cheltenham Central Conservation Area.
6. For Appeal B, the Council has raised no objection in respect of public safety, and I observed nothing to contradict this view. Thus, the main issue is the effect of the advertisements on the visual amenity of the area.

Reasons

Conservation Area and Visual Amenity

7. The appeals site is in the Old Town Character Area of the Cheltenham Central Conservation Area (CA). This area encompasses the historic core of Cheltenham's historic layout and street pattern. The area's key elements include the retail and leisure area of the Brewery Quarter which links the commercial core of the historic High Street and the wider town centre.²
8. The appeals site is located where the pavement connects the Brewery Quarter to the High Street of this central shopping centre in a Primary Urban Area. This part of the High Street shows evidence of its evolution to a contemporary retail centre. It comprises modern forms that surround historic features such as those just visible in the Brewery Quarter. It also includes, on the opposite side of the road from the appeal site, 228 High Street, an early 19th Century stuccoed town house, with a retail unit at ground level. Above street level, this Grade II listed building retains its pleasing original architectural style, which is subtly decorated by pilasters and elliptical arch mouldings above its large first floor windows.
9. Given the above the CA's significance, insofar as it relates to Appeal A, lies in the historic townscape that reflects Cheltenham's architecture from the Regency period and its earlier street pattern.
10. Despite many recent changes to this busy commercial area, modern additions have a low-key commercial aesthetic, and this is sensitive to the architectural style of the Regency Town. I noted on the site visit that this aesthetic extended to the street furniture near the appeal site, which is generally limited to bespoke streetlamps, and the modest forms of a well-maintained post box and litter bin and small bollards. The scale and limited amount of these understated items visually harmonise with the surrounding built form and ensures a generally uncluttered appearance at this wide stretch of pavement. These well-

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

² Central Cheltenham Conservation Area Old Town Character Area Appraisal and Management Plan 2007

planned features provide a positive space at this prominent location to appreciate the special interest in this part of the designated heritage asset.

11. Advertising in the vicinity of the appeal site is mainly limited to fascia signs above business units, poster style advertisements on bus shelters and at the existing telephone kiosks. While many are illuminated, I saw that digital style advertisements were not characteristic of the area. As a result, this constrained signage and advertising sufficiently blends visually with this part of the High Street and does not appear an overly dominating feature of the area for this reason.
12. Also, street furniture and advertising in the wider street scene is of a similar type and scale to that near the appeal site. There is a large, relatively modern kiosk much further to the east and on the opposite side of the road, with a poster style advertising panel incorporated. But this is an exception and sufficiently distant, so as its sizeable form does not appear a detracting feature affecting the site.
13. Relevant to Appeal A, paragraph 197 of the National Planning Policy Framework (the Framework), sets out matters which should be taken into account including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
14. In respect of Appeal B, while amenity is not defined exhaustively in the Regulations, it indicates that relevant factors include the general characteristic of the locality, including the presence of any features of historic, architectural, cultural or similar interest. Paragraph 136 of the Framework highlights that the quality and character of places can suffer when advertisements are poorly sited and designed.
15. The proposal would replace two existing telephone kiosks with a single BT Hub. Although a significantly narrower form, this structure would be substantially higher than the existing glass kiosks. It would also be substantially higher than the majority of other existing street furniture on this side of the road and the bus shelters opposite. Even when viewed against taller features, this tall, rectangular block would contrast jarringly with the narrow form of the streetlamps and the verdant appearance of the street trees in the locality. Moreover, unlike the existing kiosks and shelters, its solid form would not allow glimpses of the street through the structure. In these regards the proposed hub's form would not be sensitive to the scale or appearance of surrounding street furniture.
16. The proposed structure would be positioned at the edge of the pavement, in a space currently devoid of street furniture. The removal of the kiosks would limit street furniture in the immediate area. However, the structure would be significantly closer than the existing kiosks to the wider section of pavement which provides the entrance to the Brewery Quarter, and to the front of 288 High Street. It would be in a considerably more prominent location in the CA as a result, and this discordant structure would visually compete with, and would harmfully dominate surrounding street furniture in the area.
17. When approaching along the High Street in an easterly direction, this sizeable hub would significantly fill this existing relatively open stretch of pavement. It would noticeably encroach on existing views along this side of the High Street

when on this side of the street. It would also interrupt pedestrian views of 228 High Street's front elevation. Furthermore, it would interfere with how this designated heritage asset is currently experienced when walking or sitting near the food outlets close to the appeal site. From this viewpoint, the structure would distract from the appreciation of 228 High Street's architectural interest and its contribution to the significance of this part of the CA.

18. The proposal would also result in two large panels displaying digital advertisements. The lighting of the panels would be controlled to satisfy the guidelines set out in the Professional Lighting Guide³ in terms of brightness. However, the texture and style of this form of advertising, which would include changing images, would appear distinctly different to non-digital signs that feature in this area. The strikingly different appearance of the panels would fail to assimilate with the existing lowkey forms of advertising and signage surrounding the appeal site.
19. The appeal site is in a well-lit street in a busy commercial centre. However, the nature of lighting from streetlamps, traffic lights, illuminated signage and lighting in surrounding business units is noticeably different to a large, changing digital display at street level, positioned at a prominent section of pavement, and specially designed to distract attention.
20. The advertisements would visually compete with surrounding positive features in the locality, in the following ways. In particular, in combination with the hub, the advertisements would interrupt views along the historic High Street, when approaching eastwards near the existing food outlet. As a result, the proposal would have an incongruous presence that would adversely alter the appearance of the existing positive space where the special interest of the nearby listed building can currently be appreciated. In this regard this distracting feature would harmfully encroach on the setting of the listed building at 228 High Street. At this prominent location it would also detract from the character of an area which is currently distinguished by more subtle forms of advertising.
21. Conditions covering matters such as speed of image change and levels of light would not negate the intrusive aspects of the proposal described above. Therefore, these measures would not address the identified harm to the visual amenity of the area.

Heritage Balance

22. Paragraph 199 states that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
23. For the reasons outlined above, the appeal proposal would detract from the legibility of the CA's historic architectural character, and identity, including the setting of the listed building at 228 High Street. The harmful visual effects resulting from the proposal would fail to preserve the setting of the listed building, and the character or appearance of the CA. This effect would be localised, and the harm caused to the significance of the CA as a whole would be less than substantial. Relevant to Appeal A, in accordance with paragraph 202 of the Framework, this harm needs to be weighed against the public benefits of the proposal.

³ The Professional Lighting Guide 05: The Brightness of Illuminated Advertisements

24. The proposal would upgrade existing payphones. The hub would be powered by renewable energy and designed for accessibility. It would provide free public Wi-Fi and device charging, and this would assist in addressing digital inequality. It could be used for contacting emergency services and there would be scope to collect data and monitor the environment. It would also provide 4G and 5G services, consistent with the Framework requirements regarding supporting high quality communications. However, given that this would only be one hub these public benefits would be limited. Moreover, that the proposal may be a more discreet street solution than a mast would not negate the identified harm to the street scene and the CA.
25. The advertisements in the hub would contribute to the national and local economy. Advertising hours would also be made available to the Council for public messaging, which might assist with charitable activities. These matters are outside the provision of the Regulations for Appeal B, but even when considered in respect of Appeal A, this would be a small benefit given the scale of development. Set against this small benefit would be the identified harm to the visual amenity of the area of the proposed advertisements in this case.
26. The proposal would result in the removal of two kiosks and the installation of one structure. This would be tempered by the following considerations. As the existing kiosks are adjacent to each other, they appear as one extended unit, the bulk of which is visually moderated by their glazed panels. As such, the proposal would replace a relatively unobtrusive feature with a substantially taller and more solid structure. Moreover, although the kiosks are in the centre of the pavement, I saw that pedestrians can freely pass either side of them. Therefore, although the proposal would have a reduced footprint it would not meaningfully declutter the street near the appeals site.
27. Although the appearance of the kiosks is a little tired, I saw no evidence of vandalism. Also, the advertising displayed appears in keeping with the style of advertising in the wider area. Given the above, the existing kiosks do not appear a detracting feature in the street. Even if the kiosks are targets for vandalism, I am not persuaded this harmful proposal would be the only means of updating this equipment or addressing Ofcom's requirement for a public telephone at this location.
28. The public benefits are limited in scale and do not outweigh the great weight given to the conservation of the CA, and the less than substantial harm to its significance which I have identified. Therefore, the harm to the designated heritage assets would not have a clear and convincing justification, as required by paragraph 200 of the Framework.
29. For Appeal A, I therefore conclude that the proposal would fail to preserve or enhance the character or appearance of the Central Cheltenham Conservation Area. It would in this respect be contrary to Policies D1 and HE3 of the Cheltenham Plan and Policies SD4 and SD8 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy. Together these require development complements and respects neighbouring development and the character of the locality, and in respect of advertisements in conservation areas are appropriate in type, size, colour, illumination and siting.
30. The proposal would also be inconsistent with the Framework and advice set out in the Street for All: Advice for Highway and Public Realm Works in Historic Places, which seek to safeguard heritage assets.

Visual Amenity Conclusion

31. For Appeal B, for the reasons outlined above I conclude that the advertisements would harm the visual amenity of the area. Also, while not determinative, the proposal would be contrary to the above development plan policies and guidance insofar as they are relevant to this matter.

Other Matters

32. Regarding Appeal B, I note the local economic benefits illustrated in the London borough example, as well as other benefits associated with advertising. However, these matters are outside the scope of the Regulations and therefore do not weigh in favour of the proposal.
33. Noise limits on the hub could be secured by condition and no issues have been raised in respect of pedestrian flows and highway safety. Although this is not a site in London, it would be in line with Transport for London guidance.⁴ I also note the submitted certification of conformity with ICNIRP public exposure guidelines, but this is a matter outside the scope of this appeal. Acceptability in terms of noise, highway safety and pedestrian flows is to be expected with relevant development, and so these are neutral factors in these appeals.
34. I note measures to monitor and reduce anti-social behaviour, albeit no means to ensure their implementation are provided. In any case, development should not result in behaviour of this kind, so this matter does not weigh in favour of the proposed hub.
35. Another appeal decision for a site in Liverpool differs from the current appeals proposals in various ways. It concerns another city elsewhere in the country that is renowned for its mercantile and maritime history and is distinctly different to this appeal site in a Regency town. This limits the equivalence of the other case to the appeals before me. Furthermore, the site subject of these appeals has its own setting and circumstances. The Inspector, in her decisions relating to sites in Cheltenham, found harm in respect to heritage assets as have I in this case. These decisions have not altered my findings in these appeals for this reason.
36. References in the appellant's submission to Queen Victoria Street appears to be in error and therefore are not relevant to these decisions.

Conclusion

37. In the case of Appeal A, the proposal would be contrary to the development plan and the Framework and there are no other considerations which outweigh this finding. Accordingly, for the reasons stated above and having regard to the development plan taken as a whole, this appeal fails.
38. Regarding Appeal B, for the reasons given above Appeal B is also dismissed.

A J Sutton

INSPECTOR

⁴ Guidance for Digital Roadside Advertising and Proposed Best Practice – 2013