



Appeal Decisions

Site visit made on 25 July 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2023

Appeal A Ref: APP/G3110/W/22/3308278

Pavement o/s 267 Banbury Road, Summertown, Oxford OX2 7HT

- 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 Mr James Browne, BT Telecommunications Plc against the decision of Oxford City Council.
 - The application Ref 22/01163/FUL, dated 29 April 2022, was refused by notice dated 11 August 2022.
 - The development proposed is installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of 2no. associated BT kiosks.
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Appeal B Ref: APP/G3110/H/22/3308279

Pavement o/s 267 Banbury Road, Summertown, Oxford OX2 7HT

- 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 Mr James Browne, BT Telecommunications Plc against the decision of Oxford City Council.
 - The application Ref 22/01164/ADV, dated 29 April 2022, was refused by notice dated 11 August 2022.
 - The advertisement proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of 2no. associated BT kiosks.
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Decisions

1. Appeal A Ref: APP/G3110/W/22/3308278, is dismissed.
2. Appeal B Ref: APP/G3110/H/22/3308279, is dismissed.

Procedural Matters

3. Both appeals relate to the same site and to each other. Appeal 'A' concerns the refusal of planning permission to erect a BT street hub ('street hub'). Appeal 'B' concerns the refusal of express consent to display advertisements on the street hub. I have considered each on its individual merits, however, as they raise similar issues, I have combined both decisions into a single decisions letter.
4. The Advertisements Regulations stipulate that control may be exercised only in the interests of amenity and public safety. In determining the advertisement appeal, the development plan policies are not determinative, but I have taken them into account in determining the appeal against the refusal of planning permission.

Main issues

5. With regard to appeal A, the main issues are the effect of the proposed street hub on the character and appearance of the area and highway safety.
6. With regard to appeal B, the main issues are the effect of the proposed advertisement on visual amenity and public safety.

Reasons

Background

7. The site of these appeals is a section of pavement along Banbury Road.
8. The proposed development is a freestanding street hub unit that forms part of a new citywide network across Oxford, based on upgrading the existing BT estate of public call boxes. The street hub network along with facilities to display advertisements will provide the residents and visiting populations with a suite of services, including free ultrafast Wi-Fi, phone calls, wayfinding, device charging, an emergency 999 call button, public messaging capabilities, and a platform for interactive technologies on the streets such as air quality monitoring. The street hubs would also be accessible for all types of users.

Character and appearance

9. Banbury Road is an arterial road leading in and out of Oxford City Centre. Most notably the appeal site forms part of Character Area G1 - Summertown Shopping Centre, as identified within the Summertown & St Margaret's Neighbourhood Plan ('NDP'). This area is described as a wide avenue, well-landscaped, and successful district shopping centre. The aim of the NDP is to protect and enhance its physical character.
10. The appeal site is flanked by a range of buildings. On the side of the appeal site these comprise modern commercial buildings and on the opposite side of the road, the buildings are of traditional forms and mainly occupied for residential uses with some incorporating landscaped frontages. The variety of scales and designs of the properties either side of the road create an attractive townscape.
11. The townscape is also complemented by the treatment of the public realm. For example, whilst there is street furniture nearby, including, bicycle stands, benches and a phone kiosk. These are generally low-lying and arranged centrally along the pavement in line with a number of street trees. There is also some creative incorporation of hard and soft landscaping to enhance the public realm. This, along with the attractive townscape contribute to a distinctive street scene. Indeed, the NDP identifies the well-designed public pavement space as an asset of Character Area G1.
12. Because street furniture is generally arranged centrally within the pavement near the appeal site, the section of pavement nearest the commercial premises is, in part, occupied by tables and chairs and other paraphernalia associated with businesses. As such, the section of pavement nearest the road, which the appeal site serves is relatively uncluttered. In this context and notwithstanding its streamlined and modern design, the proposed street hub because of its overall scale and siting relative to the prevailing scale and arrangement of the nearby street furniture, would appear particularly dominant and discordant.

This would undermine the attractive townscape and high-quality public realm and the contribution this makes to the distinctive street scene.

Visual amenity

13. As already stated, along the side of the appeal site, the character of the road is commercial in nature. This includes, shop advertisements including fascia's, projecting signs, and window display. However, the existing advertisements in this section of the road are generally confined to the buildings rather than being freestanding in the pavement and away from other street furniture. On the opposite side of the road, because the buildings are largely occupied for residential uses, which includes bed and breakfast facilities, the signage associated with these is very limited.
14. Whilst the nearby phone kiosk incorporates an advertisement, as already stated, this is centrally located amongst other street furniture and is therefore not particularly prominent. Although the bus stop to the north of the appeal site incorporates advertisements, this is sited away from other street furniture and near the roadside for the convenience of passengers using the bus service.
15. Therefore, and notwithstanding the relatively modest size of the proposed advertisements, because of the incompatible, prominent siting of these in this proposal, made more conspicuous by their illumination, they would undermine the attractive townscape to the detriment of its visual amenity.
16. I note that an Inspector in determining another appeal in a location in London (APP/N5660/W/18/3199793) for a similar structure found that this would not adversely affect visual amenity. However, this depends on the individual site-specific circumstances of each case.
17. For the above reasons, the proposed street hub would harm the character and appearance of the area and conflicts with Policy DH1 of the Oxford Local Plan 2036 ('LP') which seeks to secure high quality design that creates or enhances local distinctiveness. The proposed street hub is also contrary to the aims of policies HOS2 and HOS3 of the NDP. Together these policies seek to support development where this respects the local character of the neighbourhood as defined in the character assessment.
18. Although the decision notice in respect of appeal A refers to Policy DH6 of the LP, this relates to shopfronts and advertisement and therefore is not relevant to the street hub structure.
19. Also, for the above reasons the proposed advertisements would harm the visual amenity of the area. In accordance with the Regulations, I have also taken into account the provision of the development plan so far as it is material.

Highway safety

20. The appeal site falls within Summertown District Centre and is located between a bus stop and a pedestrian crossing. Based on these factors and my observations, the area is heavily used by pedestrians, motorists and other highway users.
21. Although the street hub would be placed about 45m from the junction of Banbury Road with South Parade, this exceeds the minimum required visibility

for vehicles travelling at 30mph (43m). Therefore, I am satisfied that the street hub and any potential clusters of users would not unacceptably affect visibility for motorists entering from South Parade onto Banbury Road.

22. Notwithstanding the overall width of the pavement, the generally uncluttered section of pavement which serves the appeal site is the section mainly used by pedestrians and other pavement users.
23. In particular, the street hub would be located broadly between the edge of the pavement and an area demarked for electric scooter parking. I observed that the actual parking of scooters overflows this area. Thereby, reducing the extent available pavement. The street hub and its use would further reduce and limit access along this section of pavement. The reduction in width would create an obstacle and pinch-point that would impede pedestrian flow and also most likely restrict wheelchair/mobility scooter access with regard to convenience and safety. Therefore, the proposal would have an adverse effect upon on highway safety.
24. Whilst the appellant has referred to examples¹ where similar structures were not considered to compromise highway safety; I have based my decision on the site-specific circumstances of the appeal site. As such these decisions to not alter my findings.
25. For the above reasons, the proposed street hub would compromise highway safety for pedestrians and other users of the pavement. Accordingly, I find conflict with LP policies M1, which amongst other things seeks to prioritise access by walking, cycling and public transport and RE7 which relates to managing the impact of development on communities.
26. The installation of the street hub would also fail to accord with NDP policies TRS1, which requires that priority be given to the needs of pedestrians, cyclists, children, residents, and that disabled people and TRS2 which seeks proposals to encourage safe and sustainable modes of transport, including through infrastructure such as pavements.

Public safety

27. I have noted the objection from Thames Valley Police on the grounds of negative impact on crime and disorder with specific regard to drugs offences, misuse of the 999 button, honeypot effect, street clutter/pinch points, cycle theft. I have also taken account of the details in respect of these issues. However, these are largely generic. For this reason and given the submitted Street Hub Anti-Social Behaviour Management Plan ('Version 2'), I am satisfied that the proposal would be effectively managed and would not unacceptably affect public safety.
28. In this case there is insufficient technical evidence to suggest that the proposed advertisements would be an unacceptable distraction for motorists. Furthermore, conditions could be used to control visual effects and the timing of display changes if Appeal B were to succeed.
29. For the above reasons, the proposed advertisements would not harm public safety. In accordance with the Regulations, I have also taken into account the provision of the development plan so far as it is material.

¹ Appendices J and K of Appellant's Appeal Statement

Other considerations

30. I have had regard to the public benefits associated with street hubs, as detailed in the appellant's submissions. The proposal would also support 5G connectivity for the area. Support for the delivery of advanced, high quality and reliable communications networks is afforded by the National Planning Policy Framework ('the Framework') and such networks bring significant social and economic benefits.

Other matters

31. The proposals form part of an overarching project to remove a number of existing BT Kiosks that have fallen into disrepair. There appears to be no, in principle, objection to this. However, the description of the proposal on the application form refers to the removal of 2 existing kiosks whereas other correspondence on behalf of the appellant, including the appeal statement refer to the removal of a single kiosk. Furthermore, the existing kiosk(s) to be removed is/are not clearly identified on any plan. Given this uncertainty, I am not satisfied that an adequate mechanism to secure the removal of the existing kiosk(s) has been identified. As such, I attach limited weight to this.
32. I have considered all users of the public highway, including those with a 'protected characteristic' for the purpose of the Equality Act 2010 and the related Public Sector Equality Duty. I am satisfied that anyone with a protected characteristic would not be disproportionately affected.
33. The proposals are near to buildings identified as non-designated heritage assets. However, as I am minded to dismiss the appeals for other reasons, it is not necessary for me to consider this matter further.

Conclusions

34. Appeal A – I have taken account of the potential benefits of the proposal detailed by the appellant, and the support given elsewhere and by the Framework for high quality and reliable communications infrastructure, including 5G networks, in supporting economic growth and social well-being.
35. However, whilst I attach considerable weight to the support and benefits identified for the proposal, these do not outweigh the significant harm that I have found arising from the proposal on the character and appearance of the area and highway safety. I, therefore, conclude that the Appeal A should be dismissed.
36. Appeal B – Whilst I have found that the advertisements would not harm public safety, these would harm the visual amenity of the area and for this reason, Appeal B should be dismissed.

M Aqbal
INSPECTOR