



Appeal Decisions

Site visit made on 20 July 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Appeal A Ref: APP/G3110/W/22/3308269

Telephone Kiosk, St Ebbe's Street, Oxford OX1 1DS

- 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 of BT Telecommunications Plc against the decision of Oxford City Council.
 - The application Ref 22/01155/FUL, dated 29 April 2022, was refused by notice dated 11 August 2022.
 - The development proposed is described as proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, plus the removal of 1no. associated BT kiosk.
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Appeal B Ref: APP/G3110/H/22/3308270

Telephone Kiosk, St Ebbe's Street, Oxford, OX1 1DS

- 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 of BT Telecommunications Plc against the decision of Oxford City Council.
 - The application Ref 22/01156/ADV, dated 29 April 2022, was refused by notice dated 11 August 2022.
 - The advertisement proposed is 2no. digital 75" LCD display screens, one on each side of the Street Hub unit.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. There are two appeals on this site, one against the refusal of planning permission and the other against the refusal of advertisement consent. They are intrinsically linked and raise similar issues. To avoid repetition, while considering each on its merits, I have dealt with both in a single decision letter.
4. The addresses contained within the banner headings above for both Appeal A and B have been taken from the Council's decision notices as this more accurately reflects the location of the proposals, albeit I have included the postcode provided within the application forms.
5. The description of development in the heading above for Appeal A has been taken from the appeal form as the evidence before me indicates only one kiosk is to be removed, not two, as stated on the planning application form and Council's decision notice. I have proceeded to determine the appeal on this basis.

6. In respect of Appeal B in the banner heading, I have taken the description of the development from the application form; whilst different to the Council's decision notice it accurately describes the advertisement sought.
7. Also, in respect of Appeal B, the Council has drawn my attention to the policies it considers to be relevant to this appeal, and I have taken them into account as material considerations. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In determining this appeal the Council's policies have not therefore, by themselves, been decisive.
8. The requirements of s66(1) of the Act do not apply to proposals for advertisement consent because that statutory duty only applies to the consideration of planning applications made under The Town and Country Planning Act 1990. Nonetheless, features of historic or architectural interest are relevant when assessing the general characteristics of the area and I have taken account of the presence of nearby listed assets in considering the impact on amenity.

Main Issues

9. The main issues in respect of Appeal A are the effects of the proposed development on (i) the character and appearance of the area having regard to the Central (City & University) Conservation Area (CA) and the presence of the nearby Grade II listed buildings – (1) New Road Baptist Chapel, (2) Oxfordshire Light Infantry Memorial, and (3) 1, New Inn Hall Street and (ii) highway safety.
10. The main issues in respect of Appeal B are the effects of the proposed advertisement on (i) the visual amenity of the area and (ii) public safety.

Reasons

Character and appearance / Visual amenity

11. The appeal site is adjacent to the CA, and whilst not within it, the advertisements would be visible in views to and from the edge of the CA. The CA covers a large area encompassing some of the historic core of the city. Its significance, insofar as it relates to these appeals, is attributed to the historical street layout and the range of distinctive historic buildings that provide a record of the City's history and evolution over time. To the north of the appeal site lies Bonn Square, which is partially surrounded by three Grade II listed buildings, New Road Baptist Chapel, Oxfordshire Light Infantry Memorial, and 1, New Inn Hall Street.
12. The New Road Baptist Chapel on Bonn Square dates from the eighteenth century with later enlargements. Its significance can be attributed to its architectural style and historic religious associations. The Oxfordshire Light Infantry Memorial lies in Bonn Square to the east of New Road Baptist Chapel. It comprises a stepped plinth with an obelisk. Its significance is derived from its appearance and historical connections. 1, New Inn Hall Street is located to the north of the memorial. It derives its significance from its historical appearance and close connection with other heritage assets.
13. Given the presence of these heritage assets, I have had special regard to the desirability of preserving the buildings, their setting and any features of special architectural or historic interest which they possess.

14. The proposed development and advertisement would be located on a pedestrianised section of St Ebbe's Street. Despite the pavement, where an existing phone kiosk is currently sited, being fairly wide, the height of adjacent buildings along this section of the street has a narrowing effect, channelling views up to Bonn Square or down to the junction at Pembroke Street.
15. The commercial development along this section of the street includes small static signage for the bank. It also contains other elements of street furniture, including bike racks, decorative streetlamps, e-scooter hire stand, bollards, a service cabinet and street trees. Most of this street furniture is located along a linear line. The proposed Street Hub would directly replace an existing telephone kiosk which sits between the bike racks.
16. The existing kiosk now appears somewhat dated and does not complement the views up to Bonn Square. Nevertheless, it is not completely out of keeping with the other more modern street furniture, including the e-scooter stand. In this context and given its muted colour scheme when viewed up toward Bonn Square, it does not stand out as an overtly incongruous feature in the street scene.
17. The proposal would directly replace the kiosk and would not add to the amount of clutter on the street, but similarly it would not serve to reduce it. It would be of a distinctly different design and taller than the existing kiosk and be illuminated on both sides with high-definition displays and changing advertisements. Thus, it would be a far more prominent, overt and intrusive structure than what is currently in place. Although it would be sited among the rows of bike racks, they are small scale in comparison and, in addition, bikes are a common feature of Oxford. In contrast, the proposal would stand out, which is its intended purpose is to attract attention. This would have a deleterious effect on the character and appearance of the area and views of the CA, Oxfordshire Light Infantry Memorial and 1, New Inn Hall Street. In reaching this conclusion, I have taken into consideration that trees located close to these heritage assets partially obscure views when fully in leaf. However, when not in full leaf, the detrimental harm would be readily apparent.
18. Given the position of New Road Baptist Chapel, there would be no harm to its setting or how it is experienced. Additionally, the Council have stated that the proposal would harm locally listed buildings in close proximity to the site. However, I have not been provided with the details of the locally listed buildings. In any event, a lack of harm to locally listed buildings would not overcome the detrimental harm I have found above.
19. The Council have identified there is no need for the structure, advertising or other functions, and the applicant has not submitted enough convincing information or data to suggest otherwise. However, from the policies put before me, only design rationale is sought from them. As such, I find there is no overall requirement to demonstrate a need for the appeal schemes.
20. The Council have also raised concerns related to other proposed BT Street Hubs. No other Street Hubs were visible within the vicinity of the appeal site and I have based my decision on the merits of the appeals and my observations on site. Furthermore, there is no substantive evidence before me that demonstrates the Street Hub in is at a greater risk of vandalism such that its condition would detract from the setting of the CA.

21. Accordingly, in terms of Appeal A, the development would unduly harm the character and appearance of the area, the setting of the CA and Grade II listed buildings, the Light Infantry Memorial and 1, New Inn Hall Street. It would therefore conflict with policies S1, DH1, DH3 and DH6 of the Oxford Local Plan (OLP). Amongst other things, these policies seek to ensure development is of high quality design that creates or enhances local distinctiveness and respects and draws inspiration from the historic environment.
22. For the purposes of the National Planning Policy Framework (the Framework), the CA and listed buildings are designated heritage assets. Within the overall context, I consider that the proposal would lead to less than substantial harm to the significance of these assets. The Framework indicates that such harm is to be weighed against the public benefits of a proposal. However, great weight should be given to an asset's conservation. I return to this issue below.
23. In respect of Appeal B, as an integral part of the proposed Street Hub, I conclude that the proposed advertisement would have an unacceptable impact on visual amenity. I have had regard to the policies set out above where they are material to this issue. As I have found harm to visual amenity, it follows that there would be conflict with these policies.

Public / highway safety

24. The appeal site is located on a pedestrianised section of the street, and the Street Hub would be sited in a like-for-like position with a broadly similar footprint to the kiosk to be removed. At the time of my site visit, the area was heavily trafficked by pedestrians, though I recognise that the number of pedestrians will fluctuate throughout the day. The footway in this location is wide, with existing street furniture predominantly on one side of the footway. Within the central part of the street and either side of the row of street furniture, there therefore remains ample space for pedestrians and cyclists to pass.
25. For the purposes of pedestrian flow and visibility, the generous width of the footway in this locality allows for the free flow of pedestrians and cyclists to use the nearby cycle racks. Despite being slightly taller, the Street Hub would not have a significantly greater effect on visibility along the street. Pedestrians, cyclists and motorists, including bus drivers, would have adequate sightlines along this section of the street to see each other from a relatively good distance. Given the location of the Street Hub, set well within the pedestrianised section of the street, cyclists and drivers would not need to slow down, and as such, there would be no harm to traffic flows.
26. While the LED advert screens would allow the changing of displayed images, I am satisfied that the transition of the images and the restriction of moving images can be controlled by suitably worded conditions to ensure there would be no distraction to highway users.
27. Concerns have also been raised by interested parties in respect of the effect of the proposed Street Hub on the effectiveness of CCTV cameras in the vicinity and for other associated crimes and nuisances. In particular, it is contended that the brightness of the proposed screens can interfere with image quality and the location can also cause blind spots. However, no further details in respect of this matter have been provided.

28. I observed cycle parking racks and CCTV cameras within the vicinity of the site. However, the evidence does not indicate which cameras would be affected or to what extent. No compelling information on the effectiveness of these cameras in improving public safety and reducing crime or the fear of crime, nor how the proposed Street Hub would have a deleterious effect on this, has been provided. It has, therefore, not been demonstrated that the proposed Street Hub would increase crime, or the fear of crime, to the detriment of public safety.
29. 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 by the appeal schemes and would be able to see and navigate around the Street Hub without any undue restriction in the same way as the present situation, given the presence of the existing kiosk.
30. I therefore conclude that the proposed development in relation to Appeal A would not have an unacceptable impact on highway safety. The development would therefore comply with Policies M1 and RE7 of the OLP. These policies seek, among other things, to ensure that development does not have unacceptable transport impacts and the urban environment is permeable and safe to walk through. It would also accord with the Framework, in so far as it seeks to create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles.
31. In respect of Appeal B, I conclude that the scheme would not unduly harm public safety. I have taken into account the policies of the development plan and the Framework so far as they are material, and the scheme would comply with the policies referred to above in this respect.
32. The Council have identified conflict with OLP Policy M2. However, based upon the evidence before me, I find that the proposed schemes in themselves are unlikely to generate significant amounts of movement or likely to have a significant impact on the adjacent or surrounding road network during construction. I therefore find no conflict with OLP Policy M2. The Council have also identified conflict with paragraph 109 of the Framework. As this relates to providing adequate overnight lorry parking facilities, I find no overall conflict with this paragraph on public and highway safety grounds.

Other Matters

33. I note that the appellant actively sought to engage with the Council prior to submitting the applications and the proposals may form part of a wider strategy by the appellant. However, in terms of the planning merits of the appeals, this is a neutral matter, which does not weigh in favour of the proposals.
34. The Council have stated that the proposed development is not considered to be telecommunication equipment. However, based on the services it would provide, including calls and ultrafast wi-fi access and in the absence of any substantive evidence to demonstrate otherwise, I find it would be telecommunications equipment.

35. I acknowledge the public benefits highlighted by the appellant, including environmental and other data collection, ultrafast wi-fi access, direct emergency calls, public information displays, wayfinding, device charging and the removal of the dated kiosk. I also recognise the economic and social importance of advanced, high quality and reliable telecommunications, and the support in the Framework for the expansion of electronic communications networks. I attach significant weight to these benefits. However, given the limited scale of the scheme, such benefits would be relatively modest and do not outweigh the harms I have found above. I am not therefore persuaded that the public benefits would outweigh the harm identified to the setting of the CA or the setting of the nearby Grade II listed buildings, namely the Light Infantry Memorial and 1, New Inn Hall Street. As such, there would be conflict with paragraph 202 of the Framework.
36. My attention has also been drawn to approvals by both another Council and allowed appeals that the appellant considers relevant. However, it is inevitable that whether or not such installations are acceptable will be determined by the specific context of any proposal. The Council decision and appeals referred to are from different locations and there is no clear evidence that they are directly comparable to the proposals before me. Accordingly, these examples add no particular weight in favour of the development.

Conclusion

37. The proposals would not give rise to public or highway safety concerns. Nonetheless, and for the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that both Appeal A and Appeal B should be dismissed.

A Hickey

INSPECTOR