
Appeal Decisions

Site visit made on 29 August 2023

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2023

Appeal A Ref: APP/P4605/W/22/3311935

Pavement outside WHSmith, Union Street, Birmingham B2 4SH

- 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 Birmingham City Council.
 - The application Ref 2022/06008/PA, dated 15 July 2022, was refused by notice dated 13 October 2022.
 - The development proposed is installation of 1 no new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosk(s).
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Appeal B Ref: APP/P4605/H/22/3311936

Pavement outside WHSmith, Union Street, Birmingham B2 4SH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Mr James Browne (BT Telecommunications Plc) against the decision of Birmingham City Council.
 - The application Ref 2022/06027/PA, dated 15 July 2022, was refused by notice dated 13 October 2022.
 - The advertisement proposed is 2 no digital 75" LCD display screens, one on each side of the Street Hub unit.
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Decision

1. **Appeal A** is allowed and planning permission is granted for the installation of 1 no new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT kiosks at Pavement outside WHSmith, Union Street, Birmingham B2 4SH in accordance with the terms of the application 2022/06008/PA, dated 15 July 2022, subject to the conditions in the Schedule at the end of this decision.
2. **Appeal B** is allowed and express consent is granted for 2 no 75" LCD display screens, one on each side of the Street Hub unit, at Pavement outside WHSmith, Union Street, Birmingham B2 4SH in accordance with the terms of the application Ref 2022/06027/PA, dated 15 July 2022. The consent is for 5 years from the date of this decision and is subject to the 5 standard conditions set out in the Regulations and the conditions in the Schedule at the end of this decision.

Preliminary Matters

3. As set out above, there are two appeals on this site. Appeal A relates to a refusal for planning permission, and Appeal B relates to the Council's refusal to grant advertisement consent. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two proposals together, except where otherwise indicated.
4. The Regulations stipulate that control may be exercised only in the interests of amenity and public safety. With respect to Appeal B, development plan policies are only relevant considerations insofar as they relate to such matters.

Main Issues

5. In Appeal A, the main issue is the effect of the proposal on the character and appearance of the area.
6. For Appeal B, the Council has raised no objection in respect of public safety, and I observed nothing to contradict this view. The main issue is, therefore, the effect of the advertisements on the amenity of the area, with particular regard to visual amenity.

Reasons

Character, appearance, and amenity of the area

7. The proposed Street Hub would replace two existing payphone booths located within a wide, fully pedestrianised, busy shopping area of Union Street. The surrounding area is characterised by large modern buildings with typical city centre commercial uses, including retail, takeaway and restaurant uses at ground floor level. These commercial units advertise themselves with a mix of internally and externally illuminated fascia signs and projecting signs.
8. A range of street furniture is located within Union Street, including outside seating, bollards, flag poles, bins, and an existing double sided digital advertisement at the eastern end of the street. The pedestrianised street is of sufficient area that the street scene does not appear cluttered. Rather, the street has an animated, bustling city centre commercial character, with many people passing along the street, entering and exiting the commercial units.
9. The existing payphone booths appear dated and have a significantly larger footprint than the proposed Street Hub. Subject to a condition securing removal of the existing phone booths, the Street Hub would not, therefore, add clutter to the street scene. Whilst the Smart Hub would have a more striking appearance than the existing phone booths, its slender modern appearance would enhance the street scene in comparison to the existing phone booths.
10. The appellant's product statement describes the facing materials of the Smart Hub as powder coated aluminium and glass, with the renders showing the metal in a very dark monotone. It would be seen as a typical city centre feature amongst other street furniture. Given the significant scale of the pedestrian area surrounding the site, and the removal of the existing dated payphone booths, the cumulative impact of the Street Hub with the existing street furniture would not adversely affect the existing commercial character and appearance of the area.

11. The proposed advertisements would be more eye catching than the existing phone booths, particularly during the hours of darkness or in dull conditions. Nevertheless, the digital displays would not be unduly intrusive or incongruous given their position within a bustling city centre location. The Street Hub would be sufficiently far from the existing digital advertising display to avoid an unacceptable cumulative impact. As such, subject to conditions to control their illumination at night, the size, positions and method of illumination of the proposed advertisements would not harm the amenity of the area.
12. Overall, the Street Hub and the digital advertisement displays would not adversely affect the character, appearance, or amenity of the area. The proposals would accord with Policy PG3 of the Birmingham Development Plan 2017, Policy DM2 of the Development Management in Birmingham Development Plan Document 2021 (DPD) and Design Principle 3 of the Birmingham Design Guide. Amongst other things, these look to ensure new development responds to local context, provides attractive streets and pleasant walking environments. Furthermore, the advertisement proposal would accord with Policy DM7 of the DPD which requires advertisements to be sympathetic to the character and appearance of their location, avoiding clutter of signage in the public realm. The proposals would also comply with the National Planning Policy Framework which advises that the quality and character of places can suffer when advertisements are poorly sited and designed.

Conditions

13. In the interests of certainty, with regard to Appeal A, I have imposed the standard conditions relating to the commencement of the development and the approved plans. It is necessary to impose a condition in relation to the external finish of the hub in order to ensure a satisfactory appearance. Finally, in respect of Appeal A, to prevent a proliferation of street furniture, a condition is included that requires the removal of the existing payphone booths.
14. In respect of Appeal B, the five standard conditions as set out in the Regulations apply. In addition, and in the interests of public safety, conditions are included on the level of illumination, the frequency of changes to advertisements, and that require instant changes to displays. For the same reason, conditions are imposed that restrict moving images and advertisements that resemble traffic signs.

Conclusion

15. For the reasons above, both Appeal A and Appeal B are allowed.

S D Castle

INSPECTOR

SCHEDULE OF CONDITIONS FOR APPEAL A - APP/P4605/W/22/3311935

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drawings numbered 001 revision A (Site Location Maps), 002 revision A (Proposed Site Plan), 003 revision A (Existing and Proposed Elevations), and 003 revision A (Generic Drawing Elevations).
- 3) The external surfaces of the development shall be constructed using the materials, finishes, and colours as described in the BT Street Hubs Product Statement v1.0 February 2021.
- 4) The Street Hub hereby permitted shall not be first used until the existing telephone booths shown to be removed on the approved plans have been completely taken down and removed from the defined application site and the street surface in the location of the removed booths made good to match the adjoining surfacing.

SCHEDULE OF CONDITIONS FOR APPEAL B – APP/P4605/W/22/3311936

- 1) The intensity of the illumination of the display screens shall not exceed 600 candelas per square metre between dusk and dawn and 2500 candelas per square metre at any other time in line with the maximum permitted recommended luminance as set out by 'The Institute of Lighting Professional's Professional Lighting Guide 05: The Brightness of Illuminated Advertisements'.
- 2) The display screens shall not display any moving, or apparently moving, images (including animation, flashing, scrolling three dimensional, intermittent or video elements).
- 3) The minimum display time for each advertisement shall be 10 seconds.
- 4) The interval between advertisements shall take place over a period no greater than one second; the complete screen shall change with no visual effects (including fading, swiping or other animated transition methods) between displays and the display will include a mechanism to freeze the image in the event of a malfunction.
- 5) No advertisement displayed shall resemble traffic signs, as defined in section 64 of the Road Traffic Regulation Act 1984.