



Appeal Decisions

Site visit made on 27 October 2023

by S. Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 30 October 2023

Appeal A Ref: APP/C2741/W/22/3311643

Footpath outside 4 St. Helen's Square (Jaeger), York YO1 8QP

- 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 Telecommunication PLC) against the decision of the City of York Council.
 - The application Ref 22/01648/FUL, dated 20 July 2022, was refused by notice dated 26 September 2022.
 - The development proposed is the removal of an existing BT phone box and the installation of a proposed replacement BT Street Hub and associated display of advertisement to both sides of the unit.
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Appeal B Ref: APP/C2741/Z/22/3311644

Footpath outside 4 St. Helen's Square (Jaeger), York YO1 8QP

- 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 Telecom PLC) against the decision of the City of York Council.
 - The application Ref 22/01657/ADV, dated 20 July 2022, was refused by notice dated 26 September 2022.
 - The development proposed is two digital 75-inch LCD display screen, one on each side of the Street Hub unit.
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Decisions

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. However, in respect of Appeal B, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety.
5. The local planning authority (LPA) has referred to the Council's draft local plan 2018. However, as it has not been formally adopted, I can only afford it limited weight.

Main Issues

6. The main issues in respect of Appeal A are (i) whether the development preserves or enhances the character or appearance of the Central Historic Core Conservation Area (CA); (ii) the effect upon the settings of listed buildings surrounding St. Helen's Square and including the Grade I listed Mansion House and Grade II* St. Helen's Church, and (iii) public safety.
7. The main issues in respect of Appeal B are the effects of the proposed advertisement upon (i) the visual amenity of the area and (ii) public safety.

Reasons

Effect on heritage assets/visual amenity

8. The appeal site lies within the CA, characterised by its general street pattern and the scale, quality and diverse designs of its mainly historic buildings. The proposal would be located within St Helen's Square which is a vibrant and busy part of the shopping area.
9. The proposal would be a free-standing structure and featuring two illuminated digital screens. It would be located in a central position within St Helen's Square about 0.5 of a metre from the edge of the carriageway which vehicles use, at restricted times of the day, to traverse the public space.
10. St Helen's Square was first formed in 1745 and is referenced in the Council's Conservation Area Appraisal as being a well laid out, maintained and decorated formal space. Indeed, I was able to appreciate the generally open character of St Helen's Square as part of my site visit. It affords some welcome relief to the otherwise compact built form surrounding it. It is understood that the square is used for a variety of formal and informal public gatherings and events throughout the year.
11. While there is some street furniture in St Helen's Square, it is positioned in an orderly manner and does not dominate the predominantly open space. Owing to the limited amount of street furniture and equipment, and the generally open nature of St Helen's Square as an area for pedestrians to sit and congregate, I find that the appeal site adds positively and distinctively to the character and appearance of the CA as a whole. Furthermore, the absence of high and dominating street furniture ensures that passers-by can fully appreciate views of surrounding listed buildings such as the splendid St Helen's Church and the Mansion House. In this respect, I find that the existing appeal site contributes positively to the setting of these listed buildings. Thus, the generally open nature of St Helen's Square means that surrounding listed buildings can be fully appreciated and experienced by members of the public without any significant, prominent, or competing development within their settings.
12. Existing advertisement signage is predominately subdued, unlit and confined to the names of the shops and businesses, positioned between ground floor and first floor level.
13. Owing to the size, height and appearance of the hub/advertisement, coupled with changing digital images, I find that the proposal would unacceptably detract from the spacious character of St Helen's Square. The hub would be in a prominent position and would compete unacceptably with the way that

surrounding listed buildings are appreciated and experienced by passers-by. Indeed, it would be positioned next to low lying seating areas which people use for gathering and in a location where there are generally open views of surrounding listed buildings. The hub would be much higher than the low lying street furniture and would have the effect of introducing an unacceptable amount of street clutter into St Helens Square. In this regard, harm would be caused to this part of the CA as well as to the settings of the listed buildings.

14. The appellant states that the proposed development would include the removal of a telephone box at an unspecified site. I am not certain that such a proposal could be controlled by way of a condition, but even if this were possible, I have determined the proposals in terms of their impact upon the specific appeal site. Furthermore, I could not see any existing telephone boxes within St Helen's Square as part of my site visit. Therefore, the removal of a telephone box elsewhere in the City of York would not in itself overcome the harm identified in terms of the impact of the proposals upon the setting of listed buildings and the character and appearance of the CA.
15. I consider that the appeal proposal would lead to less than substantial harm to the CA. In such circumstances the National Planning Policy Framework 2023 (the Framework) notes at paragraph 202 that *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'*
16. In this regard, I acknowledge the importance of digital communications both in everyday life and in building a strong competitive economy. I accept that the appeal proposal would permit emergency calls to be made and that community information, charity events and wayfinding maps and other public information could be included at no cost to the public. I also note that the screens would also automatically dim at night so as to be less intrusive. It might be that it would encourage more customers to visit the area and to support local businesses. In this case, however, I do not find that the identified benefits would be weighty enough to outweigh the harm that would be caused to the character and appearance of the CA and the settings of the listed buildings.
17. The appellant has referred to an appeal approval in another city which is considered to be relevant. However, the decision relates to a different location and there is no clear evidence that it is directly comparable to the current proposal. Accordingly, I cannot afford it any material weight. I have determined the appeals on their individual merits.
18. Therefore, in terms of Appeal A, I conclude that the development would fail to preserve or enhance the character and appearance of the CA. In addition, the proposals would not preserve the significance of the listed buildings given the harm that would be caused to their settings. The proposals would therefore conflict with the design, amenity and conservation requirements of chapter 16 of the Framework and with the National Design Guide (NDG).
19. In respect of Appeal B, I conclude that the proposed advertisement would have an unacceptable impact upon visual amenity. I have had regard to the Framework and NDG 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 them.

Public safety

20. St Helens Square is essentially a space for pedestrians. The appeal proposal would be located amongst seating areas with room to pass on either side. While it might introduce an additional hazard for those with a visual impairment, I consider that this would not be significantly greater than that of the existing street furniture.
21. The advertisement displays with their changing images would introduce a new element into the street scene for both drivers and pedestrians with which to contend. However, by the nature of the square's layout, traffic speeds would be low, and in addition, drivers are only permitted access to the square between 5pm and 10:30am and when the lighting would be dimmed for much of that time, thus reducing any potential distraction.
22. In addition, there is no substantive evidence, and nothing that I could see on my site visit, to suggest that there would be any conflict with highway signage, nor that the road geometry and layout is so complicated, nor that driving conditions are so demanding, that the proposal would present an unacceptable highway safety risk.
23. Therefore, I conclude that the proposals in relation to both Appeal A and Appeal B would not have an unacceptable impact upon highway safety. It would accord with the Framework, in so far as it seeks to create places that are safe, secure and attractive and which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Conclusion

24. The proposal would not give rise to material public or highway safety concerns. However, for the reasons given above, it would give rise to adverse impacts upon designated heritage assets which would not be outweighed by public benefits. Therefore, both Appeal A and Appeal B should be dismissed.

S. Hartley

INSPECTOR