



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/22/3311624

Telephone Kiosk on the footpath opposite 1 Feasegate, York YO1 8SH

- 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 22/01646/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/H/22/3311630

Telephone Kiosk on the footpath opposite 1 Feasegate, York

- 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 22/01654/ADV, dated 20 July 2022, was refused by notice dated 26 September 2022.
 - The development proposed is the proposed installation of two digital 75 inch LCD display screens, 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.
6. For Appeal B, I have used the LPA's description of the proposed development in the banner as it is a more concise.

Main Issues

7. 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 setting of designated heritage assets – 1 Feasegate and 1 St Sampsons Square, 2 St Sampsons Square, and Melrose House, and (iii) highway/public safety.
8. 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

Effect on heritage assets /visual amenity

9. The appeal site lies within the CA, characterised as a whole by its general street pattern and the scale, quality and diverse designs of its mainly historic buildings. It is within Character Area 11 'Central shopping area of the CA Character Appraisal' and which describes it as having an original street pattern, but which is now characterised by wide streets and formal spaces as a result of eighteenth and nineteenth century development, and which now has a wide range of building designs with different external building materials.
10. The proposed Street Hub would be sited towards the middle part, though on the edge of, St Sampsons Square. This is a level, hard surfaced area with mature trees around its borders with surrounding carriageways to its sides. It provides a spacious, pleasant area, largely uncluttered and with an absence of dominating street furniture or similar structures. The evidence is that it is used for street attractions and events.
11. The proposed Street Hub, by its height and by the introduction of changing digital advertisements, would introduce an alien, conspicuous feature into the Square where street furniture and such structures currently have an unobtrusive impact upon its minimalistic, simple design and appearance. In this regard, I find that harm would be caused to the character and appearance of the CA.
12. The proposed development is for 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 proposal upon its individual merits.
13. The Square within which the appeal site is located is fronted by several Grade II and Grade II* listed buildings including, as examples 1 St Sampsons Square, 2 St Sampsons Square and Melrose House. All the listed buildings have similar settings, strongly influenced by their proximity to the Square, and which gives their settings an open and spacious character, allowing their elevations to be fully experienced by passers-by.

14. The proposed Street Hub, with its more modern looking design, including its changing digital advertisements would, from certain angles with it in the foreground, clash with and diminish the importance of such settings and therefore the appreciation of the significance of the listed buildings themselves.
15. I consider that the appeal proposal would lead to less than substantial harm to the designated heritage assets. 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 is from 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 proposal upon its 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. It would therefore conflict with the design, conservation and amenity 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 the Framework and NDG.

Public/highway safety

20. St Sampsons Square is essentially a space for pedestrians. The appeal proposal might introduce an additional hazard for those with a visual impairment, though I consider that this would not be significantly greater than other items such as the trees and traffic bollards around it.
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, on my site visit, and though it was only a snapshot in time, I was able to see that traffic speeds were 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 some 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.
24. Therefore, I conclude that the proposals would not have an unacceptable impact upon highway/public safety. The proposals 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

25. 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