



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: 31 October 2023

Appeal A Ref: APP/C2741/W/22/3311620

Footpath outside Stonebow House, 8-10 The Stonebow (Supersonic Fitness), York YO1 7NP

- 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 22/01644/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 the associated display of advertisement to both sides of the unit.
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Appeal B Ref: APP/C2741/H/22/3311629

Footpath outside Stonebow House, 8-10 The Stonebow (Supersonic Fitness), York YO1 7NP

- 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 City of York Council.
 - The application Ref 22/01651/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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Decision

Appeal A Ref: APP/C2741/W/22/3311620

1. The appeal is allowed and planning permission is granted for the removal of an existing BT phone box and the installation of a proposed replacement BT Street Hub and the associated display of advertisement to both sides of the unit at the footpath outside Stonebow House, 8-10 The Stonebow (Supersonic Fitness), York, YO1 7NP in accordance with the terms of the application, Ref 22/01644/FUL, dated 20 July 2022, and the plans submitted with it, subject to the following conditions set out in the attached schedule.

Appeal B Ref: APP/C2741/H/22/3311629

2. The appeal is allowed and planning permission is granted for the installation of two digital 75 inch LCD display screens, one on each side of the Street Hub unit at the footpath outside Stonebow House, 8-10 The Stonebow (Supersonic

Fitness), York, YO1 7NP in accordance with the terms of the application, ref: 22/01651/ADV, dated 20 July 2022, and the plans submitted with it. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional conditions set out in the attached schedule.

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 and appearance of the Central Historic Core Conservation Area (CA) and (ii) highway/public safety.
7. 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

CA /visual amenity

8. 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 8 ('Aldwark') of the CA Character Appraisal and which states that, although it is ancient in origin, it is now the most modern suburb within the walls of the city and is characterised by twentieth century development.
9. The proposed development would be on the pavement outside a large, modern multi-storey commercial building constructed to the back of the pavement and with large windows. The proposed Street Hub, with its sleek modern design would assimilate well in design terms with the adjoining modern commercial building. While there is a paucity of similarly structures in the immediate area which have changing advertisement displays, I do not consider that the proposals would cause harm to the character and appearance of the CA.
10. The appellant refers to the proposed replacement of a telephone box in the area which would reduce street clutter. However, I have no details of where the telephone box might be located, nor can I be certain that it would be removed. Nevertheless, in this instance I do not consider the removal of a phone box is a determinative matter in respect of these appeals.
11. Therefore, in terms of Appeal A, I conclude that the development would preserve the character and appearance of the CA. It would therefore accord

with the design and conservation requirements of chapter 16 of the National Planning Policy Framework 2023 (the Framework) and with the National Design Guide .

12. In respect of Appeal B, I conclude that the proposed advertisement would not have an unacceptable impact upon visual amenity. I have had regard to the policies set out above where they are material to this issue. As I have found no harm to visual amenity, it follows that it would accord with these policies.

Public/highway safety

13. The street is heavily used by buses and LPA is concerned that any restrictions to the use of the pavement might result in pedestrians stepping off into the road.
14. However, the appeal proposal would be located on a relatively wide pavement where, even with its construction, would leave sufficient room for pedestrians to pass. I do not therefore share the views expressed by the LPA.
15. The LPA has referred to the presence of a street licence in the vicinity which allows chairs to be set out on the pavement, though I have no details of the licence, or the area covered before me. However, it is a requirement of such licences that the ability of pedestrians to pass along the pavement, including those with disabilities, are not constrained.
16. While 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, I do not consider that this would be so distracting as to result in a significantly adverse impact upon public safety. Moreover, the Street Hub displays would be orientated to face oncoming drivers and sited close to the kerb of the footway, in the drivers' sight lines, which would reduce the risk of drivers turning away from the road to look at the advertisements.
17. 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.
18. 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.

Conditions

19. In appeal 'A, in addition to the statutory time condition, a condition listing the approved drawings is needed for the purposes of certainty.
20. It is also necessary, to reduce the risk of street crime and anti-social behaviour, that a condition be applied to ensure that the Street Hub is effectively managed. I have therefore applied a condition for its management to be in accordance with the submitted BT Street Hub Anti-social Behaviour Management Plan (April 2021).

21. In appeal 'B', to prevent visual intrusion and distraction to road users, it is necessary to apply a condition to control the illuminance of the advertisements so that they do not stand out significantly from the background illumination in the street, during darkness. Lighting guidance suggests that in urban areas, such as this, the maximum level could be up to 600cd/m². Given the location of the proposal, the commercial and lit character of the street, the visual contrast of the surroundings, and the size of the Street Hub's screens, I consider that 600cd/m² is a reasonable upper limit in accordance with the advice contained in the Institute of Lighting Professionals (ILP) publication: *"The Brightness of Illuminated Advertisements"*. (PLG05, January 2015).
22. To avoid the risk of distraction to drivers, it is also necessary for conditions to avoid, special effects, moving or sequenced images, to ensure a minimum display time, and to reduce the rate of change of images to instantaneous.

Conclusion

23. The proposal would not give rise to unacceptable highway/public safety concerns and the character and appearance of the CA would be preserved. Therefore, both Appeal A and Appeal B should be allowed.

S. Hartley

INSPECTOR

SCHEDULE OF CONDITIONS

Appeal A Ref: APP/C2741/W/22/3311620

- 1) The development hereby permitted shall begin no 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: (i) Drawing No. YRK-241 Rev. A – 'BT Street Hub' and (ii) Street Hub Elevations – received by the LPA on 29th July 2022.
- 3) The BT Street Hub, including its electronic features, shall be managed in accordance with the submitted BT Street Hub Anti-Social Behaviour Management Plan, April 2021, for the lifetime of the development.

SCHEDULE OF CONDITIONS

Appeal B Ref: APP/C2741/Z/22/3311629

- 1) The intensity of the illumination of the advertisements permitted by this consent shall be no greater than 600 cd/m² between dusk and dawn, consistent with guidance set out in the Institute of Lighting Professionals (ILP) publication: "The Brightness of Illuminated Advertisements" (PLG05, January 2015).
- 2) The minimum display time for each advertisement shall be 10 seconds. There shall be no special effects that include noise, smell, flashing, or smoke. Full-motion video is not permitted.
- 3) The interval between successive displays shall be instantaneous and the complete display screen shall change without visual effects (including fading, swiping or other animated transition methods) between each advertisement.

END OF SCHEDULES OF CONDITIONS