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## 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**

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### **Appeal A Ref: APP/C2741/W/22/3311613**

#### **Footpath outside 47 Parliament Street, (Halifax), York YO1 8RU**

- 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 22/01642/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/22/3311615**

#### **Footpath outside 47 Parliament Street, (Halifax), York YO1 8RU**

- 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 Telecommunication PLC) against the decision of the City of York Council.
  - The application Ref: 22/01650/ADV, 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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## **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 setting of designated heritage assets on Parliament Street and Coppergate, and (iii) highway/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 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 ancient 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.
9. Parliament Street itself, created largely in the nineteenth century but with some later additions, is a major shopping area and pedestrian thoroughfare. It provides a pleasant space for shoppers and others by its wide area and mature trees. Buildings to either side, many of which are listed, have a generally common building height of two or three storeys. Street furniture is not excessive and is generally at a low, unobtrusive level. Advertisements are usually confined to building fascia signs below first floor level. While some are lit, on my site visit I saw none which digitally changed every few seconds.
10. While I can appreciate that the street can be extremely busy at times, especially when events are held, the overall impression given by the wide pedestrian area is one of spaciousness with a lack of sudden movement within it.
11. The proposed Street Hub, by its height and modern design and by the introduction of changing digital advertisements, would introduce an inappropriate feature into the area, unacceptably contrasting with the character and appearance of this part 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 proposed development in terms of its impact upon the specific appeal site.
13. Parliament Street in the immediate vicinity of the appeal site, includes several Grade II Listed buildings, with views afforded to them, including Grade I Listed Church of All Saints, Grade II\* Listed buildings along Coppergate and further down Piccadilly. Their settings include the wide street which allows views of many of the them to be experienced without any significant visual interruptions.

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 and 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 automatically dim at night so as to be less intrusive. It might also be the case that the hub/advertisement would encourage more customers to visit the area and to support local businesses. However, in this case, I do not find that the identified benefits would be sufficient to outweigh the harm that would be caused to the character and appearance 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 appeal proposals upon 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/highway safety*

20. The hub/advertisement would be located on a relatively wide pedestrian area where, even with its construction, it would leave considerable space for pedestrians to congregate and to pass and for community and other events to take place.
21. Vehicles are allowed to use the designated part of the carriageway at certain times only (5pm to 10:30am) to service the adjoining commercial properties and, no doubt for the organised events. 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, in this environment I do not consider that this would be so distracting as to lead to unacceptable public safety impacts.

22. On my site visit, there was nothing that I could see to suggest that there would be any conflict with signage for motorists, or that the road geometry and layout is so complicated, or that driving conditions are so demanding, that the proposal would present an unacceptable highway safety risk. In addition, the advertisements would be automatically dimmed at night, which would help to reduce any such distractions.
23. Therefore, I conclude that the proposed development in relation to both Appeal A and B would not have an unacceptable impact upon highway/public safety. It would accord with the Framework, in so far as it seeks to create places that are safe and secure, and which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

### **Conclusion**

24. While I have concluded that the proposed development would not cause harm to highway or public safety, 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