



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: 01 November 2023

Appeal A Ref: APP/C2741/W/22/3311604

Footpath on Bishopthorpe Road, York, YO23 1NA

- 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 22/01640/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.
-

Appeal B Ref: APP/C2741/H/22/3311605

Footpath on Bishopthorpe Road, York, YO23 1NA

- 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 22/01643/ADV, dated 20 July 2022, was refused by notice dated 26 September 2022.
 - The development proposed is a two digital 75-inch LCD display screen, one on each side of the Street Hub unit.
-

Decision

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) the impact upon the character and appearance of the area 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

Character and appearance

8. Bishopthorpe Road is a commercial area comprising mainly two storey terraces with commercial businesses including shops and cafes on the ground floor. Several of the shops and cafes spill out onto the pavement, reducing its width. Overall, its character and appearance is a pleasant one where people come to shop and to meet socially.
9. On my site visit, I was able to see that most advertising signage was restricted to static, unobtrusive, first floor fascia signs above the commercial properties. I saw no digitally changing advertisements.
10. The proposed Street Hub, by its height and modern design and by the introduction of changing digital advertisements, would unacceptably compete with what is otherwise a calm area with its traditional character, provided by its outdoor displays of goods and particularly by its pavement seating areas.
11. 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.
12. Therefore, in terms of Appeal A, I conclude that the development would not preserve the character and appearance of the area. It would therefore not accord with the design requirements of chapter 12 of the National Planning Policy Framework 2023 (the Framework) and with the National Design Guide.
13. 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 policies set out above where they are material to this issue.

Public/highway safety

14. 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 would be 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.
15. 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.

16. However, the existing pavement displays and seating areas mean that pedestrians are forced to walk nearer to the edge of the pavement than they might otherwise, yet this is within the proposed position of the Street Hub on the pavement. It would narrow the pavement leading to conflicts between oncoming pedestrians and making it difficult for the visually impaired or those with wheelchairs or push chairs to navigate the route, with some likely to be forced into the highway during busy periods.
17. Therefore, I conclude that the proposals in relation to both Appeal A and Appeal B would have an unacceptable impact upon highway safety. It would not 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.

Other Matters

18. 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. The Street Hub could also be used to collect environmental data including, for example, traffic flows and pollution levels. 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.
19. 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.
20. Therefore, I do not find that these matters would outweigh my conclusions on the main issues.

Conclusion

21. The proposal would give rise to unacceptable highway/public safety concerns and the character and appearance of the area would be adversely affected. Therefore, both Appeal A and Appeal B should be dismissed.

S. Hartley

INSPECTOR