



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: 06 November 2023

Appeal A Ref: APP/C2741/W/22/3311611

Footpath outside 5 Blossom Street (Subway), York YO24 1AW

- 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 Telecom PLC against the decision of the City of York Council.
 - The application Ref 22/01310/FUL, dated 9 June 2022, was refused by notice dated 26 September 2022.
 - the development proposed is the removal of existing BT phone box and installation of a proposed replacement BT Street Hub and associated display of advertisement to both sides of the unit.
-

Appeal B Ref: APP/C2741/H/22/3311614

Footpath outside 5 Blossom Street (Subway), York YO24 1AW

- 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 22/01314/ADV, dated 9 June 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.
-

Decisions

Appeal A Ref: APP/C2741/W/22/3311611

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 5 Blossom Street (Subway), York YO24 1AW in accordance with the terms of the application, Ref 22/01310/FUL, dated 9 June 2022, and the plans submitted with it, subject to the following conditions set out in the attached schedule.

Appeal B Ref: APP/C2741/H/22/3311614

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 at 5 Blossom Street (Subway), York YO24 1AW in accordance with the terms of the application, ref: 22/01314/ADV, dated 9 June

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 or appearance of the Central Historic Core Conservation Area (CA); (ii) the effect upon the setting of heritage assets including Micklegate Bar, the Odeon cinema, Victoria Terrace and at the Crescent and adjoining building, 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 designated 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 Area 23 of the CA Character Appraisal and which states that it has for centuries been a major route into the city, leading to and from Micklegate, a designated ancient monument.
9. The appeal site adjoins listed buildings including the Odeon Cinema (Grade II), Victorian terrace along South Parade (Grade II) and the Grade II Listed building at the junction with The Crescent and a Building of Merit along The Crescent itself.
10. It is a busy area with high numbers of pedestrians visiting the commercial premises and boarding, leaving and waiting for buses at the several bus shelters. Traffic volumes and general noise levels are high.
11. The proposed development would lead to the removal of two telephone boxes on the appeal site which the appellant describes as being somewhat outdated and worn out. The proposal is to replace them with the Street Hub which would take up less floor area but would be taller and would contain changing advertisement images.
12. Its greater height and its digital displays would be more prominent than the telephone boxes which it would replace, but this is a busy area with much

activity and where the proposed Street Hub would assimilate satisfactorily within the busy commercial area where advertisements are currently not uncommon. On my site visit, I was able to see various illuminated signs, albeit none which changed every few seconds.

13. The settings of the adjoining listed buildings are ones of a bustling street and pavements with various street furniture. While the proposed Street Hub would be taller than the telephone boxes which it would replace, and would contain changing advertisements, I do not consider that the net effect would be to have a significantly adverse effect upon their settings.
14. The LPA is particularly concerned that it would harm the setting of Micklegate Bar, a designated Ancient Monument. Blossom Street is a wide thoroughfare which, by allowing views of it, forms an important part of its setting. However, the geometry of the road and intervening street furniture, including the bus shelters, restrict the view of Micklegate Bar from the actual appeal site. When viewed from other parts of Blossom Street in the vicinity of the appeal site (such as across the road) the Bar is sufficiently far away for its setting not to be significantly, adversely affected by the proposed Street Hub and its advertisements.
15. Therefore, in terms of Appeal A, I conclude that the development would preserve or enhance the character and appearance of the CA. In addition, the proposals would preserve the significance of the listed buildings and their settings. The proposals would therefore accord with the conservation, amenity and design requirements of chapter 16 of the National Planning Policy Framework 2023 (the Framework) and with the National Design Guide.
16. 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 the proposed development would accord with these policies.

Public/highway safety

17. The appeal site lies at the junction of Blossom Street and The Crescent, the latter which is a cul-de-sac. The proposed Street Hub with its advertisement display would be set back from the highway so as to avoid sight lines. While, by its changing images, it would introduce another matter for drivers and pedestrians to take into account, in this environment I do not consider that this would so distracting as to materially have an adverse impact upon highway safety. I note in this regard that the Highway Engineer, while raising points of detail, does not object to the proposals in principle. I have no reason to disagree. Neither do I consider that the Street Hub would cause an obstruction to pedestrians using the wide pavement. Indeed, the Hub would have a lesser footprint than the two telephone boxes which it would replace.
18. Therefore, I conclude that the proposals would not have an unacceptable impact upon public/highway safety. As such, the proposed development 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 to include a condition 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, appearance and settings of heritage assets 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/22/3311611

- 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-202 – 'BT Street Hub'; (ii) Dimensioned elevations received by the LPA dated 16 June 2022 and (iii) ref: YRK -202 'Existing and proposed views'.
- 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/H/22/3311614

- 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