



Appeal Decisions

Site visit made on 20 December 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2024

Appeal A Ref: APP/V1260/W/23/3320205

Pavement outside Tesco Express 11 Bourne Avenue, Bournemouth BH2 6DT

- 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 JCDecaux UK Limited against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref 7-2023-18550-PU, dated 23 December 2022, was refused by notice dated 3 March 2023.
- The development proposed is replacement of an existing advertised call box with a communication hub unit with defibrillator.

Appeal B Ref: APP/V1260/H/23/3320206

Pavement outside Tesco Express 11 Bourne Avenue, Bournemouth BH2 6DT

- 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 JCDecaux UK Limited against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref 7-2023-2259-BF, dated 23 December 2022, was refused by notice dated 3 March 2023.
- The advertisement proposed is single sided 86" LCD screen display.

Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. Although the description of the proposal for Appeal A refers to the replacement of an existing advertised call box. I have limited information on this. As such, I have treated the proposal as being a new communication hub unit with defibrillator ('communication hub').
4. The two appeals relate to the same appeal site and to each other. I have considered each on its individual merits, but as they raise similar issues, I have dealt with the cases in a single decision letter.
5. Since the Council determined the application which these appeals relate to, an updated version of the National Planning Policy Framework, December 2023 ('the Framework') has been issued. However, the changes this brings do not alter my findings in respect of these appeals.

6. In respect of Appeal B, Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and the Framework both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Regard does not need to be had to the development plan. Nonetheless, whilst the policies referred to by the Council have not by themselves been decisive for Appeal B, I have taken them into account as a material consideration. The Council raise no concerns regarding public safety and based on the evidence before me and my observations, I see no reason to disagree.

Main Issues

7. The main issues in relation to Appeal A, are the effect of the proposal on the character and appearance of the area and highway safety.
8. The main issue for Appeal B is the effect of the proposal on visual amenity.

Reasons

Background

9. The appeal site comprises part of a pavement adjacent commercial premises, on the edge of The Square and near the registered 19th Century Central Gardens.
10. The proposed communication hub is a hybrid form of development that combines communication apparatus and a publicly accessible defibrillator with an advertisement display on a single freestanding structure. This unit, in addition to providing free calls to landlines, offers a range of additional connective functions such as free Wi-Fi, a 32inch touch screen to enable wayfinding, direct access to local webpages, and both USB and wireless device charging.

Character and Appearance and Visual Amenity

11. As already stated, the appeal site is on the edge of The Square. This and the pavement leading to it, which includes the appeal site are identified as parts of the 'public realm' and a 'key arrival point/destination' in the Council's Bournemouth Local Plan: Town Centre Area Action Plan Bournemouth Borough Council, Adopted March 2013 ('TCAAP'). As well as functioning as a focal point within the town centre, this area of public realm also links parts of the registered Central Gardens and is therefore important functionally, visually and historically.
12. The development to the east of the appeal site comprises a group of individual buildings, incorporating shop frontages along the ground floor. Together, these form a cohesive and attractive terrace. These, along with the registered Central Gardens create an attractive townscape.
13. The quality of the townscape is complemented by the treatment of the public realm. For example, whilst there is street furniture nearby, including, bicycle stands, benches and phone kiosks. These are generally low-lying and arranged near to enclosed planting areas within The Square. Consequently, the appeal site and the area of public realm this is a part of are relatively uncluttered. As such, the quality of the public realm positively contributes to the character and appearance of the area.

14. The Council's adopted Bournemouth Public Realm Strategy: Guiding Principles Supplementary Planning Document (April 2013) seeks to ensure streets and spaces are attractive by amongst other things, providing visual simplicity, reducing clutter and ensuring a co-ordinated approach to street furniture.
15. In the above context and notwithstanding its modern 'simple design,' the proposed communication hub because of its overall scale and siting relative to the prevailing scale and arrangement of the nearby street furniture, would appear particularly dominant and discordant. Furthermore, in a location which, due to the respective width of the pavement relative to the vastness of The Square, would heighten its prominence in the street scene and result in an intrusive appearance and additional visual clutter. This would result in a harmful and erosive effect on the uncluttered character of the public realm.
16. In my view, the proposal, due to its height and form would be seen as a significant and imposing item of street furniture and notwithstanding the potential ability to control illumination, introduces a substantial eye-catching illuminated digital advertisement. This would undermine the attractive townscape and high-quality public realm and the contribution this makes to the character and appearance of the area.
17. I acknowledge that installations of this nature are commonplace in commercial areas and their presence would not be unexpected in a town centre environment such as this. Nonetheless, for the above reasons and due to the site location at the confluence of The Square, it would partially interrupt views into and detrimentally affect the inviting open aspect of this area when viewed and approached from Bourne Avenue.
18. As already stated, to the east of the appeal site, the character of the road is commercial in nature. This includes, shop advertisements including fascia's, projecting signs, and window displays. However, the existing advertisements in this section of the road are generally confined to the buildings rather than being substantial and freestanding in the pavement and away from other street furniture.
19. Therefore, the proposed advertisement, because of the incompatible, prominent siting of this in an area of public realm made more conspicuous by its illumination, would undermine the attractive townscape to the detriment of its visual amenity.
20. Consequently, the proposal would harm the character and appearance of the area, in conflict with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) ('CS') and Policies D7 and T1 of the TCAAP. Together, these policies seek to ensure that all development and spaces are well designed and of a high quality and contribute positively to the appearance and safety of the public realm. Also, the proposal fails to accord with Policy 5.11 of the Bournemouth District Wide Local Plan (February 2002) which provides support for telecommunications equipment provided this minimises impact on visual amenity.
21. For the above reasons, the proposed advertisement would also harm the visual amenity of the area. In accordance with the Regulations, I have also taken into account the development plan so far as it is material.

Highway safety

22. As already stated, the appeal site is located in an area of public realm also identified as a key arrival point/destination. The proposed communication hub would also be sited near the entrance to the Tesco store and in close proximity of a zebra crossing.
23. On the information before me and my observations, this section of public realm is well used by pedestrians and cyclists throughout the year and more intensely during the peak tourism season. Severe crowding is therefore not an uncommon occurrence. The proposed communication hub unit, by reason of its siting, would cause unacceptable obstruction within an area of footway which is heavily used by pedestrians and cyclists.
24. Furthermore, this area is used as an access by HGVs to The Square for market stall traders and is similarly retained otherwise as a fire tender access point for the adjoining buildings. Based on my / and in the absence of any site-specific evidence to the contrary, it would appear that the siting of the proposed communication hub would limit the ability of vehicles to access The Square for authorised activities requiring vehicles to illegally traverse the nearby zebra crossing as the proposal would block the legal crossover. This would increase danger to other users of the highway, in particular pedestrians and may affect access rights.
25. As such, the proposal is contrary to CS Policies CS18 and CS41, amongst other matters these policies require that development is well integrated with, and will not compromise, any existing or proposed cycling and walking network. Also, that development should, be designed to respect the site and its surroundings and contribute positively to the appearance and safety of the public realm.
26. I also find conflict with Policies T1 and T2 of the TCAAP, which together seek to improve safety for all users, ensure appropriate servicing and delivery arrangements are maintained and/or provided for businesses and provide a high-quality continuous network of direct, safe and attractive pedestrian and cycle routes.

Other Matters

27. I acknowledge that advertisements are part of commercial areas and can contribute to vitality and could be utilised to promote initiatives for the benefit of the public. Also, the proposed communication hub and the services this offers, including a defibrillator would be further benefits associated with the proposal. Nevertheless, such benefits arising from a single unit would be modest.
28. The Framework identifies that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. It also seeks to support the expansion of electronic communications networks. However, these considerations are not without regard to the Framework as a whole and this is only of limited weight in favour of the proposal.

Conclusion

29. Appeal A – I have taken account of the potential benefits of the proposal detailed by the appellant, and the support given elsewhere and by the Framework for high quality and reliable communications infrastructure, in supporting economic growth and social well-being.
30. However, whilst I attach considerable weight to the support and benefits identified for the proposal, these do not outweigh the significant harm that I have found arising from the proposal on the character and appearance of the area and highway safety. I, therefore, conclude that Appeal A should be dismissed.
31. Appeal B –I have found that the advertisement would harm the visual amenity of the area and for this reason, Appeal B should be dismissed.

M Aqbal

INSPECTOR