



Appeal Decisions

Site visit made on 6 December 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2024

Appeal A Ref: APP/D1780/W/22/3299273

Pavement outside No 163 High Street, Southampton SO14 2BT

- 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 Mr Martin Stephens of JCDecaux UK Limited against the decision of Southampton City Council.
 - The application Ref 21/01825/FUL, dated 13 December 2021, was refused by notice dated 25 April 2022.
 - The development proposed is the installation of a communications hub (submitted in conjunction with 21/01826/ADV).
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Appeal B Ref: APP/D1780/H/22/3299275

Pavement outside No 163 High Street, Southampton SO14 2BT

- 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 Mr Martin Stephens of JCDecaux UK Limited against the decision of Southampton City Council.
 - The application Ref 21/01826/ADV, dated 13 December 2021, was refused by notice dated 25 April 2022.
 - The advertisement proposed the installation of LCD advertisement screen located on the rear face of the communications hub (submitted in conjunction with 21/01825/FUL).
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Decisions

1. Appeal A and Appeal B are dismissed.

Preliminary Matters

2. There are two appeals on this site. Appeal A relates to the refusal of planning permission for the communications hub and Appeal B relates to the refusal of advertisement consent. I have dealt with each case on its individual merits, but to avoid duplication both proposals are considered together in this decision, except where otherwise indicated.
3. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 require that advertisement appeal decisions are made only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance confirm this approach. The Council's reason for refusal in respect of Appeal B relates solely to amenity and not public safety. I have no reason to disagree with those findings.
4. The proposal relates to the setting of a listed building and lies within a conservation area. Accordingly, in relation to Appeal A, I have had regard to

the statutory duties set out in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

5. The main issue with respect to Appeal A is whether the proposal would preserve or enhance the character or appearance of the Old Town Conservation Area and whether the setting of a Grade I listed building would be preserved.
6. The main issue with respect to Appeal B is the effect of the proposed advertisement on amenity.

Reasons

7. The appeal site comprises an area of footway on the western side of High Street. It is proposed to install a freestanding communications hub measuring approximately 2.6 metres high and 1.3 metres wide. The hub would provide a touch screen, telephone handset, charging facilities and a defibrillator on one side and an LCD advertisement screen on the other side. The advertisement would face south.

Conservation area

8. The special interest and significance of the Old Town Conservation Area (CA) is, in part, derived from its historic townscape, comprising a predominantly tightly knit collection of architecturally-rich buildings fronting onto adjoining streets. There is variation in building style and period, but the material palette is typically limited to brick, stone and render.
9. Taken on its own, by reason of its nature and extent, the appeal site makes only a limited contribution to the character and appearance of the CA and thereby to its significance as a designated heritage asset. Nonetheless, the wider public realm in this location, which includes the appeal site, provides a sense of spaciousness which allows the surrounding townscape to be better appreciated. This contributes positively to the character and appearance of the CA as a whole and thus to its significance as a designated heritage asset.
10. I accept that the appeal site forms part of a busy and vibrant commercial centre. I also observed during my site visit that the area surrounding the site contained a reasonably high volume of street furniture and infrastructure, including lighting columns, benches, litter bins, cycle parking, existing communications hubs and advertisements affixed to buildings. In addition, temporary features such as A-boards and seating outside business premises exist along the street. Cumulatively, this contributes to a somewhat cluttered streetscene. Nevertheless, the appeal site itself and the paved area directly adjacent to it is largely open and free of clutter.
11. The proposed communications hub would be relatively tall and wide in this context, positioned towards the outer edge of the pavement and formed of a solid rectangular design. It would appear prominent within the pavement and visible within the wider streetscene. As an imposing item of street furniture, with its LCD advertisement facing south, it would harmfully clutter the appeal site and this part of High Street and unduly detract from the surrounding townscape.

12. Irrespective of the ability to control the brightness and content of the LCD screen, which would be formed of static images, as well as the existence of other hubs and advertisements within the surrounding area, LCD displays of this nature are not a dominant feature of the site or its immediate vicinity. The proposal would appear visually intrusive in this location, and would be particularly noticeable and harmful in the hours of darkness.
13. Overall, in respect of Appeal A, I conclude that the proposal would fail to preserve or enhance the character or appearance of the CA, contrary to the requirements of Section 72(1) of the Act and the relevant provisions of LP Policies SDP7 and HE1 of the City of Southampton Local Plan Review (LPR, amended 2015), Policies CS13 and CS14 of the Local Development Framework Core Strategy Development Plan Document (CSDPD, amended 2015) and Policy AP16 of the Southampton City Centre Action Plan (AP, 2015). These policies, in summary, seek to achieve high-quality design and the protection of heritage assets. This is in a similar vein to the objectives of the Framework insofar as advertisements and the protection of the historic environment are concerned.
14. In respect of Appeal B, I conclude that the proposal would have a harmful effect on amenity, contrary to the relevant provisions of LPR Policies SDP7, SDP24 and HE1, CSDPD Policies CS13 and CS14 and AP Policy AP16. These policies, in summary, seek to ensure that proposals, including advertisements, are of a high-quality design which respect their context, including in relation to the historic environment and which deliver an enriched public realm. This is in a similar vein to the objectives of the Framework insofar as advertisements and the protection of the historic environment are concerned.

Listed building

15. Bar Gate and Guildhall is positioned to the north of the appeal site. It is a Grade I listed building¹ constructed in stone and flint, dating from around 1180 with later additions. It, also referred to as Town Wall: The Bargate, is a Scheduled Monument².
16. The special interest and significance of the asset is largely derived from its historic and architectural interests. Important contributors in these regards are its age, the rarity of its surviving historic fabric, and the use of traditional materials and building methods.
17. The asset's special interest and significance are also derived, in part, from its setting. The immediately surrounding area of public realm has a visual connection with the heritage asset. It is from that position that the asset is best appreciated. This forms the asset's immediate setting. This immediate setting contributes considerably to the asset's special interest and significance.
18. Beyond this, the surrounding area is made up of built form and public realm of varying age, type and quality. This includes the appeal site. This area forms the asset's wider setting, from which only limited or distant public views of the heritage asset are possible. In my view and in this particular case, the surrounding development has altered how the asset is experienced and thus has moderated the contribution the wider setting, which includes the appeal site, makes to its special interest and significance.

¹ List Entry Number: 1092087

² List Entry Number: 1001930

19. Whilst there would be some limited intervisibility between the appeal site and Bar Gate and Guildhall, the position, scale and nature of the proposed installation, would mean that the visually, functionally and physically separate relationship between the appeal site and that asset would be maintained. The historic and architectural interests of the asset would remain unaffected. The retention of a reasonable separation distance, in particular, would reinforce this. Ultimately, the immediate and most of the wider setting that contribute to the significance of the designated heritage asset would remain undisturbed by the proposal.
20. The proposal would not compromise the setting of the listed building, detrimentally alter how the asset would be experienced or affect the ability to appreciate its significance. Consequently, the setting of Bar Gate and Guildhall, and the contribution that it makes to the asset's significance, would be preserved.
21. Overall, I conclude that the proposal would preserve the setting of Bar Gate and Guildhall, causing no harm to its significance. Consequently, the proposal would accord with the requirements of Section 66(1) of the Act (with reference to Appeal A) and the relevant provisions of SDP7, SDP24 and HE3, CSDPD Policies CS13 and CS14 and AP Policy AP16 (with reference to Appeals A and B). These policies, in summary, seek to ensure that proposals are of a high-quality design which respect their context, including in relation to the historic environment. In a similar vein, the proposed development would comply with the provisions of the Framework insofar as advertisements and the protection of the historic environment are concerned.

Public benefits and balance

22. I have identified harm to the CA as a result of the proposal. Paragraph 205 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. With reference to Paragraphs 207 and 208 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent of the works relative to the CA, I find the harm would be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 208 advises that this harm should be weighed against the public benefits of the proposal.
23. The proposed installation would provide a range of benefits, including a defibrillator and digital communication services assisting with Council messaging, wayfinding and promoting business. Those digital services would form part of a wider network across the city, an objective supported by the Government in strengthening digital infrastructure. Moreover, I do not question the need for electronic communications systems across the city in general. Be that as it may, I am not of the view that the delivery of those facilities, and the benefits put forward, are wholly dependent on the scheme before me.
24. The unit would be powered by green, including solar, energy. I do not doubt the appellant's objectives in that respect. Nevertheless, as above, achieving those objectives is not, in my view, wholly dependent on the scheme before me.

25. The appellant sets out that the proposal would act to declutter the public realm, in particular in the rationalisation and phasing out of traditional telephone kiosks. However, there is no evidence before me demonstrating that any such infrastructure would be removed on or surrounding the site as part of the proposal.
26. Overall, the weight that I ascribe to the public benefits that would accrue from the proposal, is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. Accordingly, the proposal would harm the character and appearance of the CA, contrary to the requirements of section 72(1) of the Act (insofar as Appeal A is concerned) and LPR Policies SDP7, SDP24 and HE1, CSDPD Policies CS13 and CS14 and AP Policy AP16 (Appeals A and B). As above, these policies seek to ensure that proposals are of a high-quality design which respect their context, including in relation to the historic environment. In a similar vein, the proposed development would comply with the provisions of the Framework insofar as advertisements and the protection of the historic environment are concerned.

Other Matters

27. I accept that the appellant operates a series of other communications hubs across the city, and in other cities, and that permission has been granted for other sites. In addition, the appellant makes reference to other advertisements within the CA and wider city centre. Although I have only limited information before me of those referenced schemes, the existence of other hubs and advertisements is not reason to automatically allow a scheme where harm has been identified.

Conclusions

28. For the reasons given above, I conclude that Appeal A and Appeal B should be dismissed.

A Price

INSPECTOR