

Appeal Decisions

Site visits made on 23 October 2024

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2024

Appeal A Ref: APP/B0230/W/24/3344310

Pavement outside Bridge Street, St George's Square, Luton LU1 2NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Nathan Still on behalf of Infocus Public Networks against the decision of Luton Borough Council.
 - The application Ref is 23/01182/FUL.
 - The development proposed is advertised enclosed telephone kiosk with a multifunctional communication Hub including advertisement display.
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Appeal B Ref: APP/B0230/H/24/3344314

Pavement outside Bridge Street, St George's Square, Luton LU1 2NF

- 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 Nathan Still on behalf of Infocus Public Networks against the decision of Luton Borough Council.
 - The application Ref is 23/01183/ADV.
 - The advertisement proposed is integrated into the Communication Hub unit and comprises an LCD portrait screen that will be used to show static illuminated content that is remotely changed via a secure ISDN line to the communication device.
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Appeal C Ref: APP/B0230/W/24/3344331

Pavement outside 67 George Street, Luton LU1 2AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Nathan Still on behalf of Infocus Public Networks against the decision of Luton Borough Council.
 - The application Ref is 23/01184/FUL.
 - The development proposed is advertised enclosed telephone kiosk with a multifunctional communication Hub including advertisement display.
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Appeal D Ref: APP/B0230/W/24/3344338

Pavement outside Unit 3, 26-30 George Street, Luton LU1 2AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Nathan Still on behalf of Infocus Public Networks against the decision of Luton Borough Council.
 - The application Ref is 23/01188/FUL.
 - The development proposed is advertised enclosed telephone kiosk with a multifunctional communication Hub including advertisement display.
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Appeal E Ref: APP/B0230/H/24/3344344

Pavement outside Unit 3, 26-30 George Street, Luton LU1 2AX

- 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 Nathan Still on behalf of Infocus Public Networks against the decision of Luton Borough Council.
 - The application Ref is 23/01189/ADV.
 - The advertisement proposed is integrated into the Communication Hub unit and comprises an LCD portrait screen that will be used to show static illuminated content that is remotely changed via a secure ISDN line to the communication device.
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Decisions

1. Appeals A, C and D, each concerning a proposed multifunctional communication Hub, are dismissed.
2. Appeals B and E, each concerning a proposed integrated advertising display, are dismissed.

Preliminary Matters

3. Four of the appeals addressed here involve two proposals for a multifunctional communication Hub and two related proposals to display a static illuminated advertisement as an integral part of each Hub. Appeal C involves a communication Hub only. The appellant is the same in all the appeals and the sites are situated in Luton Town Centre. For these reasons, the five appeals are dealt with in this single decision document, although each case is considered on its individual merits.
4. The 2007 Regulations and National Planning Policy Framework (the Framework) state that advertisements should be subject to control only in the interests of amenity and public safety.

Main Issues

Appeal A

5. The main issues are the effect of the proposed communication Hub on the character and appearance of this part of Luton Town Centre; the effect of the proposal on pedestrian access and safety; and the effect on objectives to support accessibility to the town centre.

Appeal B

6. The main issues are the effect of the proposed advertisement on the visual amenity of the area; and the effect on public safety.

Appeal C

7. The main issues are whether the proposed communication Hub would preserve or enhance the character or appearance of the Luton Town Centre Conservation Area; and the effect on objectives to support accessibility to the town centre.

Appeal D

8. The main issues are whether the proposed communication Hub would preserve or enhance the character or appearance of the Luton Town Centre Conservation Area; the effect of the proposal on pedestrian access and safety; and the effect on objectives to support accessibility to the town centre.

Appeal E

9. The main issues are the effect of the proposed advertisement on the visual amenity of the area, with particular regard to the Luton Town Centre Conservation Area; and the effect on public safety.

Reasons

10. The proposed Hub is the same in each case, comprising a slim design with the advertising panel on one side and telephony and related services on the other (although as noted above, for Appeal C an advertisement is not involved). For the avoidance of repetition in each appeal, I have had regard to the full range of services that would be provided, including an integral defibrillator, free Wi-Fi, device charging and public messaging capabilities. I note also that the unit screens are powered by solar energy.
11. The proposed advertisement in each case is the size of a standard six sheet advertisement with the luminance level adjusted via a light sensor to less than 600cdm² at night.
12. The central part of the Luton Town Centre Conservation Area in which two of the appeal sites are located comprises buildings largely in retail and commercial uses, focused on George Street and streets running off this. It also includes the town hall and war memorial.
13. Given these locations within the Town Centre Conservation Area, I am particularly mindful in my consideration of these proposals of the statutory requirement that in exercising planning functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area¹.

Appeals A and B

Character and appearance/visual amenity

14. The site of the proposed communication Hub and advertisement is St George's Square, a large civic space close to the Town Centre Conservation Area. The Hub would be located outside the central library, between the front steps and the raised side of the central part of the square, used for seating.

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

15. The square is surrounded on three sides by largely modern buildings, including the library, with the town hall and other older buildings forming the fourth side opposite the library. The existing street furniture is generally discreet and unobtrusive, in the form of bollards, waste bins and lampposts. This enables a good degree of openness within the square, with uncluttered pedestrian areas running between the large buildings and the raised sides of the central part of the square. There are no examples of similar free-standing structures within the square, although there are apparently redundant telephone kiosks on the opposite side of the square.
16. The new Hub would be in an open and prominent position outside the library and would be highly visible within the square, particularly for pedestrians approaching it from Bridge Street. While it would be sited close to existing lampposts and bollards, due to its height, width and overall solidity it would be the most prominent feature within its immediate setting. Due to its overall size and visibility it would contrast unfavourably with the more discreet forms of furniture that are characteristic of the square. As such, despite the commercial town centre location, it would have an undue presence in its setting, appearing as an incongruous and uncharacteristic feature.
17. The predominant form of advertisement is fascia signs to the shops and other commercial premises. While this is a town centre location with predominantly commercial and retail uses, the immediate and wider area have very few examples of the type of advertisement proposed, reflecting the open character of the public space in St George's Square. Therefore, the advertisement integrated with the Hub would be an uncharacteristic and prominent feature that would detract from the square's open character and appearance. The fact that the illumination levels would be limited at night and that the advertising panel could be used for emergency and other public messaging does not outweigh the harm to the visual amenity of the area.
18. Accordingly, for these reasons, I conclude for Appeal A that the proposed Hub would have an unacceptably harmful effect on the character and appearance of this part of Luton Town Centre. As such, it is contrary to the following policies from the Luton Local Plan 2011-2031 (2017): LLP1, which includes the requirement that all new development should contribute to enhancing a sense of place and preserve or improve the character of the area; LLP3, which requires development to accord with the strategy for positive change for Luton Town Centre; and LLP25, which requires high quality design, including that proposals should enhance the distinctiveness and character of the area. It is also contrary to the Framework, which advocates good design.
19. Policy LLP26 concerning advertisements and Policies LLP31 and 32 concerning, respectively, sustainable transport and parking are not directly relevant to the Hub proposal in my reading of them.
20. I conclude for the reasons given that the advertisement proposed in Appeal B would result in material harm to the visual amenity of the area. I have taken into account Policies LLP1, LLP3 and LLP25, outlined above, and Policy LLP26, which requires advertisements not to adversely affect the character and appearance of the area, all of which are material in this case. Given the conclusion on Appeal B,

the proposal is contrary to these policies. As already noted, Policies LLP31 and 32, referred to in the decision notice are not directly relevant in this case.

Pedestrian access/public safety

21. The area outside the library in St George's Square has high pedestrian footfall, as I saw at the site inspection. The Hub would be positioned in a wide pavement next to existing street furniture. More specifically, it would be close to a relatively large planted bed with trees and shrubs in it.
22. Currently the pedestrian flow splits to walk either side of the planted bed. Consequently, the overall width of the pavement and position of the Hub relative to the planted bed means that pedestrians would also walk either side of the Hub to then pass the planted bed; or walking in the opposite direction towards Bridge Street, would converge once they were past the position of the bed and the Hub. As such, the Hub in this position would not cause an undue obstruction to pedestrians.
23. As the advertisement would be integral to the Hub's structure, it follows that this would also not result in a harmful obstruction that would compromise the free and safe movement of pedestrians.
24. Therefore, for the reasons given, I conclude with regard to Appeal A that the proposed Hub would not have a harmful effect on pedestrian access and safety. Consequently, the proposal is not contrary to Policies LLP3 and LLP31 of the Local Plan insofar as they relate to creating a safe and accessible environment for pedestrians. Policies LLP1 concerning sustainable development, LLP26 concerning the effect of advertisements and LLP32 concerning parking are not directly relevant to the Hub proposal.
25. For Appeal B, I conclude that the advertisement would not cause harm to public safety. Policies LLP3, LLP26 and LLP31, outlined above, are material to the appeal. Given the conclusion on this issue with regard to Appeal B, the proposal is not contrary to these policies. Policies LLP1 and LLP32, as described above, are not directly relevant to the proposed advertisement.

Accessibility to the town centre

26. The Council contends that the proposed Hub would fail to meet the requirements of development plan policies already referred to and the Town Centre Master Plan, which seeks to improve accessibility to the town centre for residents and visitors. The Master Plan includes the objectives that public realm improvements would look to reduce street clutter and that development should improve the walkability of the town by increasing pedestrian permeability and townscape interest.
27. While this issue is a separate reason for refusal, it has already been found above that the proposed Hub would cause unacceptable harm to the character and appearance of this part of Luton Town Centre. In this regard, as well as being contrary to the development plan policies referred to, it is also contrary to the relevant objectives of the Town Centre Master Plan.

Other Matters

28. I acknowledge that the appellant may be frustrated by the process leading to the Council's decision in this case, particularly concerning the repositioning of the Hub in response to the Council's initial concerns. However, this matter is not within the scope of this appeal, which concerns the planning merits of the proposal before me.

Appeal C

Character and appearance/visual amenity

29. The proposed Hub would be located in George Street, a pedestrianised street within the Town Centre Conservation Area. The street comprises three and four storey buildings with retail and commercial uses at street level. The buildings reflect a mix of designs and ages, with those of modern appearance interspersed with older architecturally attractive buildings, such as the Lloyds Bank building near the appeal site on the corner of George Street and Bute Street. The town hall and war memorial are a significant presence within the street scene and act as a positive focal point within this part of the conservation area.
30. Aside from lampposts, the street furniture within this part of George Street is of limited size and presence, in the form of waste bins, seating, bollards and some public signage. As such, the wide street is open and uncluttered, enabling unimpeded views along the street to the town hall and war memorial. There are no other apparent examples of free-standing structures similar to the proposed Hub within the immediate vicinity of its proposed location.
31. Within this largely open setting, the Hub would introduce a substantive presence in terms of height, width and overall solidity. In this regard, it would detract from views of the town hall and war memorial as it would be seen as a prominent and incongruous feature in the foreground, thereby harmfully affecting the otherwise open views of these prominent buildings, which make a positive contribution to the character and appearance of the conservation area.
32. The Council refers to an existing Hub some 40 metres to the east on George Street and a replacement Hub that has been permitted around 40 metres west of the appeal location. Given the extent of separation of these structures from the proposed Hub, they do not have a direct bearing on the above findings where the location is open and the immediate vicinity is free of similar structures.
33. Accordingly, for the above reasons, the proposed Hub would fail to preserve the character and appearance of the Town Centre Conservation Area. The Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation². Based on the above findings, I consider the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.

² Paragraph 205.

34. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal³. In this regard, the Framework indicates that communications infrastructure is essential for economic growth and social well-being⁴. Although I recognise that the proposed Hub would make a positive contribution to these aims, including through the range of communications and other features already referred to, the public benefits arising from them are not sufficient either individually or as a whole to outweigh the harm to the heritage asset that is afforded considerable weight.
35. Accordingly, for the above reasons, I conclude with regard to Appeal C that the proposed Hub would not preserve the character and appearance of the Luton Town Centre Conservation Area. Consequently, the proposal is contrary to Policies LLP1, LLP3 and LLP25 of the Luton Local Plan 2011-2031, as described above; and with regard to LLP3, it is also contrary to the requirement that development should maintain and enhance the character of conservation areas. It is also contrary to Policy LLP30 of the Local Plan, which concerns the effects of development on the historic environment.
36. Policy LLP22 concerning shopping frontages, Policy LLP26 concerning advertisements and Policies LLP31 and 32 concerning, respectively, sustainable transport and parking are not directly relevant to the Hub proposal in my reading of them.

Accessibility to the town centre

37. The Council includes the same reason for refusal as for Appeal A, with regard to the failure to meet the requirements of development plan policies already referred to and the Town Centre Master Plan, which seeks to improve accessibility to the town centre for residents and visitors.
38. Given the conclusion on the first issue and with regard to this issue for Appeal A, there is no basis to find differently here. Therefore, as well as being contrary to the development plan policies referred to, the proposed Hub is also contrary to the relevant objectives of the Town Centre Master Plan.

Appeals D and E

Character and appearance/visual amenity

39. The proposed Hub and advertisement would be located further east along George Street than the proposal in Appeal C, but also within the Town Centre Conservation Area. It would be positioned close to an entrance to The Mall shopping centre with large modern retail units to either side.
40. The immediate surrounds in this part of the conservation area are characterised by predominantly modern buildings with ground floor retail and commercial uses. The entrance to the shopping centre includes a range of street furniture and other features, including a post box, lampposts, bins, a utilities cabinet and a raised

³ Paragraph 208.

⁴ Paragraph 118.

flower bed at the bottom of the access ramp to the centre. As such, the intersection between George Street and the access to the Mall is relatively crowded in terms of these various structures and features.

41. The proposed Hub would stand in front of the flower bed to one side of the lampposts, post box and utilities cabinet, which are broadly aligned. Given its overall size and presence in comparison to the existing features it would be a substantive addition in this location. Therefore, it would add to what is an already 'busy' environment in terms of street furniture.
42. Due to its position combined with its size and appearance in this prominent entrance to the shopping centre it would harmfully add to the existing features, resulting in an overly cluttered and visually incongruous street scene. Consequently, while it might not be uncharacteristic in the modern retail setting, it would unduly harm the appearance of this part of the conservation area. The fact that a Hub has been approved some 20 metres from the proposed Hub does not have a direct effect on these findings.
43. The advertisement would not of itself be incongruous in the modern retail setting. However, due to its position as an integral part of the Hub it would draw particular attention to the juxtaposition of the Hub with the existing street furniture. As such, it would contribute to the visually cluttered appearance of the entrance to the shopping centre, which would have a harmful effect on the street scene in this part of the conservation area.
44. Accordingly, for the above reasons, the proposed Hub would fail to preserve the appearance of the Town Centre Conservation Area. Consistent with the findings in Appeal C, the harm caused would be less than substantial, but should be afforded considerable weight as in the earlier appeal, based on the Framework's requirements already referred to.
45. As for Appeal C, I have had full regard to what the Framework says about the importance of communications infrastructure for economic growth and social well-being. I acknowledge also and have taken account of the full range of communication and other features that the Hub would provide. However, these are the same as the proposal in Appeal C and, therefore, there is no reasonable basis to find differently in this case. Consequently, as in the previous case the public benefits arising from the various features of the Hub are not sufficient either individually or as a whole to outweigh the harm to the heritage asset.
46. Accordingly, for these reasons, I conclude for Appeal D that the proposed communication Hub would not preserve the appearance of the Luton Town Centre Conservation Area. Therefore, it is contrary to Policies LLP1, LLP3, LLP25 and LLP30 of the Luton Local Plan 2011-2031, as described above with regard to Appeal C. Consistent with Appeal C, Policies LLP22, LLP26, LLP31 and LLP32 are not directly relevant to the Hub proposal.
47. I conclude for the reasons given that the advertisement proposed in Appeal E would have an unacceptably harmful effect on the visual amenity of the area. Policies LLP1, LLP3, LLP25, LLP26 and LLP30 of the Local Plan, as already

outlined above, are relevant in so far as they are material; and, given the conclusion on this appeal, the proposal conflicts with these policies. For the reasons given above, Policies LLP22, LLP31 and LLP32 are not directly relevant to the proposed advertisement.

Pedestrian access/public safety

48. George Street is a principal shopping street within the town centre, while the Mall is the main indoor shopping centre. Consequently, pedestrian footfall between George Street and the entrance to the shopping centre where the Hub would be located is high, as I observed on a weekday afternoon. Footfall is likely to be materially greater at weekends.
49. The Hub would be positioned in front of the existing flower bed, thereby narrowing the available space for pedestrians using the ramp to and from the shopping centre and George Street. Indeed, I witnessed many pedestrians walking across the position of the proposed Hub, both leaving and entering the Mall. Consequently, the position of the Hub would impede the free and safe flow of pedestrians at this busy intersection. These effects would be heightened at weekends when pedestrian footfall can reasonably be expected to be at its highest.
50. As regards the advertisement, this would be integral to the Hub's structure and, therefore, it follows that it would harmfully compromise the free and safe movement of pedestrians.
51. Therefore, based on these findings, I conclude with regard to Appeal D that the proposed Hub would have a materially harmful effect on pedestrian access and safety. Consequently, the proposal is contrary to Policies LLP3 and LLP31 of the Local Plan insofar as they relate to creating a safe and accessible environment for pedestrians. Policies LLP1, LLP26 and LLP32, as described above, are not directly relevant to the Hub proposal.
52. For the reasons given, I conclude that the proposed advertisement in Appeal E would result in unacceptable harm to public safety. Policies LLP3, LLP26 and LLP31, outlined above, are material to the appeal. Given the conclusion on this issue with regard to this appeal, the proposal is contrary to these policies. Policies LLP1 and LLP32, as described above, are not directly relevant to the proposed advertisement.

Accessibility to the town centre

53. The same reason for refusal as for Appeals A and C is included in the decision notices for the two appeals. These reasons concern the failure to meet the requirements of development plan policies already referred to and the Town Centre Master Plan, which seeks to improve accessibility to the town centre for residents and visitors.
54. Due to the consistent conclusions on the other two appeals, above, as well as the conclusions on the other issues in this case, there is no reasonable basis to reach a different view. Therefore, as well as being contrary to the development plan

policies referred to, the proposed Hub is also contrary to the relevant objectives of the Town Centre Master Plan.

Overall Conclusions

55. For the reasons given, Appeals A, C and D, each concerning a proposed multifunctional communication Hub, and Appeals B and E, each concerning a proposed integrated advertising display, are dismissed.

J Bell-Williamson

INSPECTOR