



Appeal Decisions

Site visit made on 16 December 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2025

Appeal A Ref: APP/G4240/W/24/3345905

Pavement o/s 49 Warrington Street, Ashton-under-Lyne, Tameside OL6 7JG

- 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 of In Focus Public Networks against the decision of Tameside Metropolitan Borough Council.
- The application Ref is 24/00154/FUL.
- The development proposed is described as installation of multifunctional communication hub including defibrillator and advertisement display.

Appeal B Ref: APP/G4240/H/24/3345906

Pavement o/s 49 Warrington Street, Ashton-under-Lyne, Tameside OL6 7JG

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
- The appeal is made by Mr Nathan Still of In Focus Public Networks against the decision of Tameside Metropolitan Borough Council.
- The application Ref is 24/00155/ADV.
- The advertisement proposed is described as installation of multifunctional communication hub including defibrillator and advertisement display.

Decision

1. Appeal A is allowed and planning permission is granted for installation of multifunctional communication hub including defibrillator and advertisement display at pavement o/s 49 Warrington Street, Ashton Under Lyne, Tameside OL6 7JG in accordance with the terms of the application, Ref 24/00154/FUL, subject to the conditions in the attached schedule.
2. Appeal B is allowed and express consent is granted for the display of a multifunctional communication hub including defibrillator and advertisement display at pavement o/s 49 Warrington Street, Ashton Under Lyne, Tameside OL6 7JG in accordance with the terms of the application, Ref 24/00155/ADV. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in Schedule 2 of the 2007 Regulations and the additional conditions in the attached schedule.

Preliminary Matters

3. The two appeals relate the same proposal on the same site. Appeal A concerns the refusal of planning permission to erect a multifunctional communication hub (the hub). Appeal B concerns the refusal of express consent for an advertisement display on the hub. I have considered each appeal on its individual merits, however, as they raise similar issues, I have combined both decisions into a single decision letter.

4. In respect of Appeal B, the Advertisements Regulations require that decisions are made only in the interest of amenity and public safety. Therefore, whilst I have taken into account the policies that the Council considers to be relevant, these have not been decisive in my determination of this appeal.
5. Subsequent to the Council issuing its decision the revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The amendments to the Framework do not affect the matters that are in dispute in the determination of this appeal. Therefore, in this instance, it has not been necessary to consult the main parties on the amendments to the Framework. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.
6. The appeal site is situated within the Ashton Town Centre Conservation Area (the CA) and therefore in accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA.

Main Issues

7. The main issues in respect of both Appeal A and Appeal B are the effect of the proposal on:
 - the character and appearance of the area and whether it would preserve or enhance the character or appearance of the CA; and
 - highway and public safety, with particular regard to the safe movement of vehicles and pedestrians.

Reasons

Character and appearance

8. The CA is relatively large in area, encompassing the main commercial and retail core of the town centre. It is characterised by different layers of modern commercial development interspersed with older buildings and streets. The CA therefore features a range of buildings and architectural styles and its significance, in part, derives from its role as a commercial and retail centre, as well as the diversity of the built environment.
9. The appeal site is located within a pedestrianised section of the town centre where vehicle access is restricted, except for loading during certain times of the day. More specifically, the site is located at the southwest corner of the Market Square, within a wide pedestrianised walkway which separates the external market stalls from the more modern buildings which face into the square. These nearby buildings facing into the square have commercial uses at ground floor, with a projecting canopy overhanging a section of the pedestrianised walkway. To the north of the appeal site are pedestrian accesses into both the Ladysmith and Arcades Shopping Centres.
10. During my visit I observed significant numbers of people walking directly past the appeal site to access market stalls, nearby ground floor commercial uses and the shopping centres to the north. People were also sat on external tables and chairs that have been placed outside food and drink outlets in the vicinity of the appeal

site. The animation of these activities gives this part of the town centre a busy commercial character, reflecting its Primary Shopping Area designation.

11. Being part of the retail heart of Ashton-under-Lyne and enclosed on both sides by shops and market stalls, this pedestrianised area is not currently devoid of signage and advertising. I saw an existing digital advertisement hub to the north of the site, and nearby shops have a variety of illuminated fascia signs, projecting signs, free-standing A-boards, and window adverts.
12. Furthermore, street furniture to the south of the appeal site on Warrington Street includes mature trees, lighting columns, road signs, bins, bollards and cycle racks. As such, adverts and street furniture feature prominently in the street scene and are part of the character of the public realm in this area.
13. The proposed installation would be an upstanding rectangular structure, centrally located within the walkway. It would however be set a sufficient distance away from the above-mentioned existing street furniture to the south so as not to result in a visually harmful increase in street clutter. The south-facing elevation would comprise primarily of the LCD advertisement, while the north-facing elevation would house features including a free to call landline, wayfinding screen, emergency service access and a defibrillator, sheltered by a projecting canopy.
14. Considering its relationship with the nearby commercial units, advertisements and street furniture in the surrounding area, the scale and appearance of the proposed installation would be broadly in keeping with its surroundings. Its simple design would be compatible with neighbouring commercial uses, and I find that the proposal would not represent a visually imposing and incongruous item, either on its own or in combination with other street furniture and advertisements in the area. It would not therefore adversely affect its immediate surroundings or result in harm to the setting of the CA.
15. Moreover, in addition to the nearby existing digital advertisement hub to the north, I noticed numerous LCD screens in the windows of nearby shops and units. As such, powered display screens are not a new or uncharacteristic feature in the area.
16. Given the already bustling, commercial aspect in this area, and subject to conditions to control the images displayed and the illumination at night, I can see no harm to visual amenity from the size, position and method of illumination of the advertisement on the hub.
17. I note the Council have raised concerns that the proposal would detract from the uniform approach and design of a committed investment into public realm works in the Market Square. I have however been provided with no details as to what these public realms works entail in order to conclude that the proposal would have any visually harmful impact.
18. In view of the above, I conclude that given the existing commercial context of the surroundings, the proposal would not harm the character and appearance of the area, or visual amenity. It would also result in no harm to the character or appearance of the CA, to which the Act requires special attention to be paid to the desirability of its preservation.

19. Consequently, there would be no conflict with Policies C2 and C4 of the Tameside Unitary Development Plan (2004) (UDP) and Policy JP-P2 of the Places for Everyone Joint Development Plan (2024) which together seek to ensure, amongst other things, that development proposals preserve and conserve the character and appearance of conservation areas. The proposal would also accord with the relevant provisions of the Framework, which have similar aims.

Highway and public safety

20. Given the width of the walkway upon which the hub would be installed, the proposal would not impact upon the movement of pedestrians and/or vehicles within the Market Square as I observed it currently operates.
21. The Council however asserts that the siting of the proposal would conflict with vehicular and pedestrian movements associated with planned investment and public realm works that have been granted planning approval within the Market Square. It is therefore claimed the proposal would result in highway and public safety concerns.
22. I have however been provided with no explanation or evidence of: the exact nature of these proposed future works within the Market Square; where and when these works are scheduled to take place; the exact implications the appeal proposal would have upon these planned works; nor how the appeal proposal would conflict with future vehicular and pedestrian movements in this area.
23. As such, there is no evidence before me to substantiate the assertion that the appeal proposal would conflict with future vehicular and pedestrian movements in the Market Square.
24. Consequently, and with no evidence to the contrary, I cannot but conclude that the proposal would not have an unacceptable impact upon highway or public safety in this area, either at present or in the future. I therefore find no conflict with UDP Policy T1 which seeks to ensure, amongst other things, that development schemes must, wherever possible, provide safe and convenient facilities for pedestrians and cyclists.
25. I also find no conflict with the provisions of paragraph 116 of the Framework where it states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Conditions

26. The Council has provided a list of condition headings which are lacking in specific detail. Nevertheless, I have considered the suggested condition headings against the advice in the Planning Practice Guidance and the Framework, using my own wording to expand upon these headings where applicable.
27. In Appeal A, in addition to the statutory time condition (1), a condition listing the approved drawings (2) is needed to ensure clarity on what has been permitted.
28. In Appeal B, all advertisements granted express consent are subject to the five standard conditions set out in Schedule 2 of the 2007 Regulations. In addition to these, to prevent visual intrusion it is necessary to apply a condition (1) to control the illumination of the advertisements so that they do not stand out significantly from the background illumination in the street, particularly during darkness. To

avoid the risk of distraction to passers-by, it is also necessary for conditions to ensure the change of image is instantaneous (2) and to ensure a minimum display time and to prevent the use of special effects and moving images (3).

29. The Council's suggested list of condition headings includes "construction hours" for both Appeal A and Appeal B. Whilst the Council's submission in respect of the conditions does not specifically detail what the construction hours should be, I note the Council's Environmental Strategy Officer (ESO) has suggested no work should take place outside the hours of 07:30 – 18:00 Monday to Friday, and 08:00 – 13:00 on Saturdays.
30. The Council's Officer Report acknowledges the ESO's suggested condition, however states that such a condition is not deemed necessary or relevant, having regard to guidance in the Framework. Given the town centre location of the appeal site, and the surrounding commercial nature, I find that this suggested condition is neither reasonable nor necessary to make the development acceptable. Consequently, it has not been included.

Conclusion

31. For the reasons given above, and taking into account all matters raised, both Appeal A and Appeal B are allowed.

R Major

INSPECTOR

SCHEDULE OF CONDITIONS

Appeal A - APP/G4240/W/24/3345905

- 1) The development must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans:
 - Part A - A02226 - Application Site Map and Images
 - A/489467/03 Rev A
 - Appendix B – Greater Manchester, Communication Hub Proposal, Hub Unit Detail

Appeal B - APP/G4240/H/24/3345906

In addition to the five standard conditions in the Regulations:

- 1) The intensity of the illumination of the advertisements permitted by this consent shall be consistent with guidance set out in the Institute of Lighting Professionals (ILP) publication: "The Brightness of Illuminated Advertisements including digital displays" (PLG05, 2023) and shall be no greater than 300 cd/m² between dusk and dawn.
- 2) 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.
- 3) The minimum display time for each advertisement shall be 10 seconds. There shall be no moving images and no special effects that include noise, smell, flashing, or smoke. Full-motion video is not permitted.

END OF CONDITIONS