



Appeal Decisions

Site visit made on 8 January 2025

by Megan Thomas KC Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Appeal A Ref: APP/Q1445/W/24/3351473

Pavement outside 65-75 West Street, Brighton BN1 2RA

- 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 Urban Innovation Company (UIC) Ltd against the decision of Brighton and Hove City Council.
 - The application Ref is BH2024/01174.
 - The development proposed is the installation of a 'Pulse Smart Hub' with integrated digital screens.
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Appeal B Ref: APP/Q1445/H/24/3351476

Pavement Outside 65-75 West Street, Brighton BN1 2RA

- 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 Urban Innovation Company (UIC) Ltd against the decision of Brighton and Hove City Council.
 - The application Ref is BH2024/01175.
 - The development proposed is the installation of a 'Pulse Smart Hub' with integrated digital screens.
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Decisions

Appeal A Ref: APP/Q1445/W/24/3351473

1. The appeal is dismissed.

Appeal B Ref: APP/Q1445/H/24/3351476

2. The appeal is dismissed.

Procedural Matters

3. There are two appeals relating to the same 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. I use the same description as utilised by the appellant for both appeals, but for the sake of clarity, the hub structures are the subject of a s.78 planning appeal and the advertisement displays are the subject of separate advertisement appeals.
4. The Town and Country Planning (Control of Advertisements)(England) Regulations 2007 stipulate that control may only be exercised in the interests of 'amenity' and

‘public safety’. With respect to appeal B, the development plan policies referred to by the Council are not determinative, but I have taken these into account as material considerations.

5. Several development plan policies have been referred to by both parties, in respect of both the s78 and Advertisement appeals. I consider the most relevant are Brighton & Hove City Plan Part One (adopted 2016) policy CP12 which aims amongst other matters to raise the standard of design in the City; CP13 which seeks to improve the quality of the City’s public streets and spaces; CP15 which seeks to conserve the City’s historic environment and those aspects of CP9 directed to promote and provide measures that would help to manage and improve mobility and to encourage and enable walking. Additionally, in the Brighton & Hove City Plan Part Two (adopted 2022) policy DM20 seeks to protect amenity; DM24 sets out requirements for advertisement display including where heritage assets may be affected; DM25 is similar in respect of communications infrastructure and DM26 and DM29 have a number of matters to have regard to when development affects conservation areas or the setting of a heritage asset. Also those parts of DM33 directed to prioritise and encourage safe and comfortable walking, wheelchair and buggy use and cycling are very relevant.
6. Reference is made to the Council’s Supplementary Planning Document on Advertisements, which I treat as a material consideration, and to a document entitled ‘Brighton and Hove City Council's Local Cycling and Walking Infrastructure Plan’. The latter does not form part of the Local Development Framework, but I note that it has been subject to public consultation, and it attracts moderate weight as a material consideration.

Main Issues

7. The main issues are (1) the effect of the proposal on the character and appearance of the surrounding area and its amenity, including the setting of a listed building and whether the proposal would preserve or enhance the character or appearance of the Old Town Conservation Area ‘CA’, and (2) the effect of the proposal on the movement of pedestrians and other footway users (including those with restricted mobility and wheelchair users) and public safety.

Reasons

Character, appearance, heritage

8. The Smart Hub structure would be about 2.54m tall, about 1.2m wide and about 0.35m deep. It would display two back-to-back internally illuminated digital LED screens which would take up the vast majority of the main faces of the hub. Whilst the material displayed on the LED screens would be static, the nature of the display would change on a timed basis. The hub would include a touchpad, free calls and charging for devices and free wifi, a usb charging point, a defibrillator, an emergency services call button, the ability to advertise local events and information and built in CCTV monitoring. It would provide some benefits to the public especially those

- without a working mobile phone. It would be sited outside 65- 75 West Street on the pavement.
9. The proposed smart hub would be located at the western side of Old Town Conservation Area 'CA' about 200m north of the beachfront. The CA boundary runs down the centre of West Street with the eastern side of West Street including the appeal site being within it. Both sides of the road are characterised by a mixture of modern commercial buildings and the east side is characterised by a combination of modern and traditional buildings dating from the mid C19th.
 10. The appeal site is located adjacent to a large modern five storey building which is used for a combination of commercial and residential uses. It includes a variety of large expanses of glazing set within aluminium frames at all levels. This includes the restaurant frontage, the upper floor windows and openings and the glazed balconies above ground floor level. There is a communications hub with back-to-back digital displays outside no.59 West Street which is on the same side of the road as the appeal site.
 11. On the opposite side of West Street is a large multi storey mixed commercial and residential building, with prominent glazing details, a Travelodge and St Paul's Church, which is grade II* listed, with its extremely large stained glass window fronting West Street. In accordance with the statutory duty set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA and in accordance with s.66 of the same Act I have had special regard to the desirability of preserving the setting of listed buildings.
 12. In the local area around the appeal site, the CA derives significance from its visual connection to the sea and in particular looking south there are long views downhill to the sea and to a number of attractive buildings which, if not within the CA are within its setting. It is these important heritage-related views that would be harmed by the introduction of the monolithic hub with its digital displays, taken together with (in some views) the existing communications hub outside no.59 West Street. In a similar vein, the appeal proposal would be directly opposite the grade II* listed church. Its grand large stained glass window and entrance portico front the footway and the proposed hub would damage and interrupt an appreciation and experience of its setting.
 13. The area of footway where the proposed hub would be sited is wide but reasonably close to bollards, illuminated fascia signs, a pedestrian crossing with traffic lights, a high level sign to a fast food restaurant, a lamppost, a road sign, refuse bin and the existing communications hub. The footway opens up a short distance to the south of the appeal site, where there is an access to off-street parking. The proposal would be eye-catching and tall and not transparent, and when added to the street furniture and similar features, I consider that there would be a significant amount of visual clutter which would harm the amenity of the streetscene.
 14. The heritage harm to the CA and listed building setting amounts to less than substantial harm to the significance of the designated heritage assets when applying paragraph 215 of the NPPF (2024). I have weighed this harm against the public

benefits which flow from the proposal and I find that the latter do not outweigh the heritage harm.

15. I have taken into account a grant of prior approval at this location on 18 July 2018 (ref APP/Q1445/W/18/3195227) for a 3-sided telephone kiosk without illuminated digital advertisement display. This was never installed. I have assessed the smart hub on its own individual merits which differ from those of the telephone kiosk and which fall to be determined in 2025 some six or so years later when the streetscene has clearly evolved. In particular, the previous inspector does not refer to the communications hub which is outside no.59 West Street on the same footway as the appeal site a few metres to the north and does not refer to St Pauls Church being a grade II* listed building.
16. Accordingly, on the first issue, I conclude that there would be unacceptable heritage harm with neither the setting of the listed building nor the significance of the CA preserved and unacceptable harm to visual amenity and streetscene character resulting from the proposal. Accordingly, a clear conflict arises with the provisions and requirements of the most relevant development plan policies identified earlier.

Highway/Pedestrian Safety

17. The proposal would reduce the available useable footway. However, the footway to the east of the proposal would be about 2.3m wide and pedestrians would naturally gravitate to that side of the hub in order to pass it. Whilst I accept the Council's assertion that at weekends and evenings the street is busy with much pedestrian traffic frequenting the many bars, restaurants and clubs in close proximity, I am not persuaded that the siting of the proposal in this particular location would cause pedestrians to step into the road, or to inconvenience them, even if the people were concurrently using the smart hub. There would be sufficient width of footway for all types of footway users.
18. I have taken note of the Local Cycling and Walking Infrastructure Plan and its aims to reduce street clutter but it does not convince me that there would be harm to pedestrians, cyclists or motorists in this case. The point where pedestrians cross is where road traffic is held by traffic lights and their safety would not be reduced by, or their visibility impeded by, the presence of the proposal.
19. As a result, I find on this issue that the proposal would not have a detrimental impact upon the function of the public highway or the safety of highway users, including pedestrians and wheelchair users. Accordingly, I do not find there is conflict with the most relevant development plan policies that I have identified above.
20. Whilst I have not found there would be unacceptable harm to public safety or comfort, I have found there would be unacceptable heritage harm (with neither the setting of the listed building nor the significance of the CA preserved) and unacceptable harm to visual amenity and streetscene character resulting from the proposal. These latter harms are not outweighed by benefits which flow from the proposal and are sufficient to dismiss the appeal.

Other Matters and Conclusion

21. All other matters raised in the representations have been considered but none outweighs the considerations that led me to my conclusions on the appeals.
22. For the above reasons, I conclude that the appeals should be dismissed.

Megan Thomas KC

INSPECTOR