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## Appeal Decision

Site visit made on 3 June 2019

**by A Parkin BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19<sup>th</sup> June 2019**

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**Appeal Ref: APP/Z4310/W/18/3205660**

**Mount Pleasant (Outside No.70 Rodney House), Liverpool L3 5UX**

- 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 British Telecommunications Plc against the decision of Liverpool City Council.
  - The application Ref 18F/0570, dated 26 February 2018, was refused by notice dated 30 April 2018.
  - The development proposed is the removal of 1 existing payphone and the erection of 1 freestanding InLink unit.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appellant has stated that mistakes were made with regard to the description of part of the proposal, specifically the proposed removal of one of two existing payphones. The description refers to a payphone on Rodney Street, which is a K6 kiosk, said to be a listed building.
3. The appellant's grounds for appeal statement confirms that this kiosk is not to be removed, and that whilst another payphone to be removed is said to have been identified, no details were provided alongside the appeal statement.
4. In their final comments, the appellant reaffirms their intention to remove 2 payphones as part of the proposed development, one on Victoria Street, which was referenced in the original appeal proposal, and another on Renshaw Street, which would substitute for the retained K6 kiosk, should the appeal be allowed.
5. Annex M of the Procedural Guide Planning appeals - England March 2019 (the Guide) states that *it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought*.
6. In this case, whilst the revision concerns only a part of the proposal, I am not satisfied that accepting a different payphone to be removed would be reasonable with regard to Government guidance<sup>1</sup>.
7. Given that the appellant has stated that there is no longer any intention to remove the K6 kiosk on Rodney Street, I have amended the description of the

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<sup>1</sup> Paragraphs M.2.2, M.2.3 and M.2.4 of the Guide

proposed development so that it accords with these circumstances and have determined the appeal on this basis.

8. The Council has also made a mistake in the wording of its fourth reason for refusal, referring to the removal of a K6 telephone kiosk on Old Haymarket, rather than Rodney Street. There is no mention of the Old Haymarket kiosk in the submitted application and as the removal of a kiosk on Old Haymarket is not part of the proposed development, I have not had regard to it in determining this appeal.
9. I have also dealt with another appeal (Ref: APP/Z4310/H/18/3205659) on this site. That appeal is the subject of a separate decision.

### **Main Issues**

10. The main issues are the effect of the proposed development on:
  - The character and appearance of the area, including the effect on designated heritage assets
  - Highway safety
  - The movement of pedestrians passing through the area.

### **Reasons**

11. The appeal site is located in a broad footway on the southern side of Mount Pleasant, to the east of a surface car parking bay, and to the west of the entrance to a prominent University building.
12. The appeal site is located to the west of a crossroads, where Rodney Street and Mount Pleasant intersect. Mount Pleasant is a sloping street containing a variety of traditional brick buildings of differing designs and heights, but generally 2/3-storey in this vicinity.
13. The appeal development would be an InLink telecommunications unit (ILTU) which, amongst other things, is said to provide free Wi-Fi within a radius of 100 metres; accessible touchscreen tablets to access various services; USB device powering ports; and free UK telephone calls. It is part of a network of such units proposed across the city.
14. The ILTUs have an irregular angled shape some 2.90m high, a maximum width of 0.89m and a depth of 0.28m. The ILTUs occupy a footprint of some 0.22m<sup>2</sup>, a significantly smaller area than the public call boxes that they would replace.
15. Integral to the ILTUs are two digital LED displays some 1.21m high and 0.69m wide. These displays, on both sides of the ILTUs, would show changing static images and would be illuminated between 600 cd/m at night and up to 2500 cd/m during daylight hours. I note that revenues generated by advertisements on the ILTUs are needed to allow the 'free use of the InLink'.
16. In addition to commercial advertisements, the ILTUs would also allocate a proportion of their display time to content promoted by the Council, and a further proportion of their time to local community events or news.

### *Character and appearance*

17. The appeal proposal would be located within the Rodney Street Conservation Area (RSCA) and opposite the Mount Pleasant Conservation Area (MPCA). It would also be located within the *buffer zone* of the Liverpool Maritime Mercantile City World Heritage Site (WHS)<sup>2</sup> although some distance from the WHS character areas. These are designated heritage assets and in accordance with paragraph 193 of the National Planning Policy Framework 2019 (the Framework), great weight should be given to the conservation of designated heritage assets.
18. The WHS designation highlights the international importance of places and their significance as a heritage asset. However, designation does not introduce any additional statutory controls. From the evidence, the size and position of the proposal within the WHS buffer zone, some distance from the WHS character areas, means that it would not adversely affect the setting of the WHS.
19. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of “preserving or enhancing the character or appearance” of a Conservation Area. From the evidence, the significance of both the RSCA and the MPCA are derived from the traditional late-Georgian buildings and street layouts, and I also note that numerous buildings have more detailed historical associations.
20. The proposal would be located close to the edge of the footway, and as set out above, a short distance to the east of a car parking bay and to the west of the crossroads. The crossroads includes pedestrian crossings for all four streets, controlled by traffic lights, including one a short distance to the east of the appeal site.
21. There are various items of street furniture near to the appeal site, including a post box and parking meter to the west and a lamppost and directional signpost to the east. Nevertheless, the width of the roads and the footways gives the area by the crossroads, including the appeal site, an open, spacious character. The car parking bay does narrow the footway to the west, but this does not significantly detract from the overall sense of spaciousness here.
22. Consequently, the size, orientation, design and position of the proposal is such that it would not be overdominant or incongruous and would not create a sense of visual clutter in the streetscene. Consequently, it would not adversely affect the character or appearance of the RSCA or the setting of the MPCA and would therefore preserve them both.
23. For these reasons, the proposal would have an acceptable impact upon the character and appearance of the area, including with regard to designated heritage assets. It would not, therefore, conflict with Policies HD 14 (Streetworks in Conservation Areas), HD18 (General Design Requirements), HD27 (Telecommunications Code Systems Operators) of the Liverpool Unitary Development Plan 2002 (LUDP) and with the Framework in this regard.

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<sup>2</sup> The WHS was inscribed on to the World Heritage List of the United Nations Educational and Scientific Organisation (UNESCO) in 2004 as “the supreme example of a commercial port at the time of Britain’s greatest global influence.”

### *Highway safety*

24. The proposal would be located some 0.5m from the kerbline on Mount Pleasant, some 2.1m to the east of the car parking bay and a somewhat greater distance to the west of a controlled pedestrian crossing by the crossroads.
25. The proposal would be at a right angle to the kerbline and the integral LED displays would face in both directions, towards oncoming traffic on Mount Pleasant. As set out above, the display would have a maximum luminance level of 2500 cd/m during the day and 600 cd/m at night.
26. There is disagreement between the main parties regarding whether the 2500 cd/m level would accord with the Institute of Lighting Professionals (ILP) guidance. The appellant has provided a copy of Professional Lighting Guide PLG 05 - The Brightness of Illuminated Advertisements 2014, which was not part of the originally submitted evidence.
27. With reference to Annexe B of the Guide, there is no substantive evidence before me to show that it would not have been possible for the appellant to have provided this evidence with their Statement of Case<sup>3</sup>. Consequently, there are no exceptional reasons for me to have regard to it, and I have not.
28. The appellant has provided a report produced by Waterman Transport & Development Limited<sup>4</sup> commissioned and subsequently endorsed by Transport for London (TfL) to support their case. I note the disclaimer within this report<sup>5</sup>, that TfL has no jurisdiction within Liverpool, and that the guidance does not consider the appeal site, and I have consequently given this only very limited weight.
29. Nevertheless, with reference to *Section 4 – Best Practice for Assessment* within the report, no substantive evidence showing detailed analysis of the proposal at this location, close to a pedestrian crossing, traffic signals and a four-way junction, has been provided. Furthermore, the submitted drawings do not show the nearest pedestrian crossing or traffic lights controlling it.
30. The appellant states that the Council has not provided any evidence that the appeal site is in an area that currently presents any highway safety issues, or that suggests drivers would be distracted by the current street layout or existing items of street furniture.
31. However, this is a busy area next to a University building entrance, with a high pedestrian footfall, and the appeal site is located close to a crossroads with four traffic light controlled pedestrian crossings. This is an area where drivers would need to concentrate in order to travel safely.
32. The size, orientation, design and position of the proposal, which would be a new piece of street furniture, readily visible to vehicles travelling in both directions along Mount Pleasant, would be likely to distract drivers' attention.
33. For these reasons the proposal would adversely affect highway safety and would conflict with Policies GEN6 (Transportation), GEN9 (Liverpool city

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<sup>3</sup> Paragraph B.2.2

<sup>4</sup> *Guidance for Digital Roadside Advertising and Proposed Best Practice* - 04 March 2013

<sup>5</sup> 'Waterman has prepared this report in accordance with the instructions of the Client. It is prepared solely for their specific use. It is non-assignable and Waterman accepts no liability for its use by a third party.'

centre), T8 (Traffic Management) and T9 (Road Safety) of the LUDP and with the Framework in this regard.

#### *Pedestrian movement*

34. As set out above, the proposal would be located close to the edge of the footway. The footway width at this location is significantly wider than the footway to the west, where the aforementioned car parking bay serves to narrow it. The footway width next to the proposal would still be wider than the narrowed footway to the west and would avoid pedestrian desire-lines in either direction.
35. No substantive evidence has been provided to show why this footway width would be inadequate for the safe movement of pedestrians, including people with disabilities, particularly given the narrowed footway to the west. In my view, the size, design and position of the proposed ILTU would not adversely affect pedestrians passing through the area and would not conflict with Policies GEN9, HD18 and T8 of the LUDP and with the Framework in this regard.

#### **Other Matters**

36. The appellant raises concerns over the way the Council has determined the ILTU network applications for planning permission and express advertisement consent generally. I have determined this appeal on the basis of the evidence before me, on its individual merits and in accordance with relevant legislation, policy and guidance. The Council's approach does not cause me to reach a different conclusion with regard to this appeal.
37. The appellant's final comments refer to various documents on the Council's website, said to be different to equivalent documents submitted by the Council with regard to this appeal. I am not familiar with the documents said to be on the Council's website. Consequently, I have had no regard to them. I have determined this appeal on the basis of the submitted information and on its individual merits.
38. The appellant has provided copies of two appeal decisions<sup>6</sup> for similar proposals in the City of Liverpool to the appeal before me, as part of their final comments. The appellant states that 'there are many transferable points' and that they set a precedent for the appeal before me. I am not fully familiar with these cases or their locations and in any event, each appeal should be determined on its individual merits. I have therefore had only very limited and non-determinative regard to these decisions.
39. The appellant has also referred to other proposals for advertisement displays / street furniture approved by the Council, and notes that the Council has a contract with an advertisement provider. I note the comments made regarding consistency of decision making. However, I am not fully familiar with these examples and in any event, they do not concern the appeal before me. I have determined this appeal on its individual merits, as set out above.
40. The appellant makes reference to the weight given to the public benefits of the proposal by the Council. It is not a matter of dispute that the proposal would provide some benefits. However, as I have found that the proposal would not adversely affect a designated heritage asset it would not cause less than

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<sup>6</sup> Ref APP/Z4310/W/18/3205104 and APP/Z4310/W/18/3205102

substantial harm and Paragraph 196<sup>7</sup> of the Framework is not engaged. Consequently, the weight given to the public benefits of the proposal in this regard does not arise in my decision.

### **Conclusion**

41. Whilst the proposal would not adversely affect the character and appearance of the area, or pedestrian movement, this is outweighed by the harm to highway safety.
42. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

*Andrew Parkin*

INSPECTOR

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<sup>7</sup> The appellant refers to paragraph 197 in their final comments