



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: 19th June 2019

Appeal Ref: APP/Z4310/W/18/3204994

Outside Lime Street Station, Skelhorne Street, Liverpool L3 5LX

- 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/0636, dated 23 February 2018, was refused by notice dated 20 April 2018.
 - The development proposed is the removal of 2 existing payphones and the erection of 1 freestanding InLink unit.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have amended the description of the proposed development so as to remove superfluous wording and improve clarity, in the banner heading above.
3. I have also dealt with another appeal (Ref: APP/Z4310/H/18/3204996) on this site. That appeal is the subject of a separate decision.

Main Issues

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

Reasons

5. The appeal site is located in a broad footway on the northern side of Skelhorne Street opposite and to the rear of the Crown Hotel. Lime Street Station is located further to the north of the appeal site with North Western Hall and St George's Hall some distance beyond. In addition to these listed buildings, to the west is a modern podium development opposite the station.
6. The appeal site is at a lower level than the station entrance. It is on a sloping part of Skelhorne Street, to the south of a low, modern building, and an area of extensive, hard-landscaped public realm to the front and side of the station, including some over-sized steps which address the change in levels.

7. 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.
8. 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 0.22m², a significantly smaller area than the two public call boxes that they replace¹.
9. 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'.
10. 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

11. The appeal proposal would be located close to the southern part of the William Brown Street Conservation Area (WBSCA) and in the vicinity of four listed buildings²; it would also be located within the *buffer zone* of the Liverpool Maritime Mercantile City World Heritage Site (WHS)³ close to the William Brown Street Character Area. 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.
12. 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, orientation, design and position of the proposal within the WHS buffer zone means that it would not adversely affect the setting of the WHS.
13. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) 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 size, orientation, design and position of the proposal would not adversely affect the setting of the WBSCA.
14. The proposal would be located close to the edge of the footway, at a right angle to the carriageway. It would be a short distance to the southwest of a lamppost and a larger distance to the northeast of another lamppost, which also serves a controlled pedestrian crossing on Skelhorne Street. A 2-sided information panel showing a map of the area, a directional signpost and a litter bin are located to the west.

¹ In this case, the two call boxes to be removed are on Skelhorne Street.

² St Georges Hall (Grade I); Lime Street Station (Grade II); the Crown Hotel, 43 Lime Street (Grade II); and, North Western Hall, Lime Street (Grade II).

³ 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."

15. Nevertheless, the width of the footway and the adjoining area of public realm means the area has an open, spacious character and 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.
16. I have had regard to the statutory duty under section 66(1) of the Act requiring decision makers (amongst other things) to have special regard to preserving the setting of a listed building or any features of special architectural or historic interest.
17. Whilst it could be seen, to a limited extent, in views of Lime Street Station, North Western Hall and St George's Hall, the proposal's size, orientation, design and position within the streetscene, to the south of the low modern building and the over-sized steps by the station, would not significantly affect such views. Furthermore, together with the separation distances and other intervening structures it would not adversely affect their settings.
18. There would be a much smaller separation distance between the proposal and the side elevation of the Grade II listed Crown Hotel. However, the size, orientation, design and position of the proposal, to the rear of the listed building and close to the low modern building and over-sized steps on the northern side of Skelhorne Street, would again limit its visual impact. When seen in the context of Skelhorne Street, nearby street furniture and the wider cityscape, it would not significantly affect views of the Crown Hotel and would not adversely affect its setting.
19. For these reasons, the proposal would have an acceptable impact upon the character and appearance of the area, including the setting of designated heritage assets. It would not, therefore, conflict with Policies HD5 (Development Affecting the Setting of a Listed Building), HD18 (General Design Requirements), HD25 (Advertisements) and HD27 (Telecommunications Code Systems Operators) of the Liverpool Unitary Development Plan 2002 (LUDP) and with the Framework in this regard.

Pedestrian movement

20. As set out above, the proposal would be located close to the edge of the footway, between two lampposts on Skelhorne Street and to the east of a 2-sided information panel, a directional signpost and a litter bin. The submitted site plan shows that the proposal would reduce the unobstructed width of the footway to some 5.0m.
21. No substantive evidence has been provided to show why a footway of this width would not be adequate for the safe movement of pedestrians. 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 (Liverpool city centre), HD18 and T8 (Traffic Management) of the LUDP and with the Framework in this regard.

Highway safety

22. The proposal would be located some 0.5m from the kerbline on Skelhorne Street, some 2.0m to the west of a lamppost positioned a similar distance from the kerbline. It would be located a short distance to the east of a controlled

- pedestrian crossing on Skelhorne Street⁴, just before its junction with Lime Street.
23. The proposal would include an integral LED display facing eastwards towards the oncoming traffic, which is one-way on this part of Skelhorne Street. 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.
24. 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.
25. With reference to Annexe B of the Procedural Guide Planning appeals - England March 2019, 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 Case⁵. Consequently, there are no exceptional reasons for me to have regard to it, and I have not.
26. The appellant has provided a report produced by Waterman Transport & Development Limited⁶ commissioned and subsequently endorsed by Transport for London (TfL) to support their case. I note the disclaimer within this report⁷, that TfL has no jurisdiction within Liverpool, and that the guidance does not consider the appeal site, and I have consequently given this report only very limited weight.
27. 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 and traffic signals, has been provided. Furthermore, the submitted drawings do not show the pedestrian crossing or traffic lights controlling it.
28. 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.
29. However, this is a busy area, with a high pedestrian footfall, and the appeal site is located close to a traffic light-controlled pedestrian crossing and the junction of Skelhorne Street and Lime Street. This is an area where drivers would need to concentrate in order to travel safely.
30. The size, orientation, design and position of the proposal, which would be a new piece of street furniture, readily visible to vehicles travelling westwards along Skelhorne Street, would be likely to distract drivers' attention.
31. For these reasons the proposal would adversely affect highway safety and would conflict with Policies GEN6 (Transportation), GEN9, T8 and T9 (Road Safety) of the LUDP and with the Framework in this regard.

⁴ The appellant refers to the traffic lights / pedestrian crossing being to the north of the appeal site on page 10 of their Statement; the site plan shows this to be located to the west and slightly to the south.

⁵ Paragraph B.2.2

⁶ *Guidance for Digital Roadside Advertising and Proposed Best Practice* - 04 March 2013

⁷ '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.'

Other Matters

32. 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.
33. 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.
34. The appellant has provided copies of two appeal decisions⁸ 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.
35. 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.
36. 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 substantial harm and Paragraph 196⁹ 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

37. 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.
38. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

Andrew Parkin

INSPECTOR

⁸ Ref APP/Z4310/W/18/3205104 and APP/Z4310/W/18/3205102

⁹ The appellant refers to paragraph 197 in their final comments