



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/18/3205161

Junction of Brownlow Hill and Mount Pleasant (Outside No. 162), Liverpool L3 5RF

- 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/0651, dated 26 February 2018, was refused by notice dated 23 April 2018.
 - The development proposed is the removal of 2 existing payphones and the erection of 1 freestanding InLink unit.
-

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/18/3205162) 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 eastern side of Mount Pleasant by its junction with Brownlow Hill, amidst buildings of the University of Liverpool. A large open plaza area is located to the east of the appeal site to the north of the old part of the Students Union building. To the north of the appeal site, on the northern side of Brownlow Hill is the prominent Victoria Building. To its immediate north are the Ashton building and the Physics, Biochemistry, Physiology, Pathology and Old Anatomy Schools, with Former Medical Museum to the rear. In addition to these listed buildings, to the west

of the site is a modern glass office building and to the northeast a modern tiled building.

6. 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.
7. 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 public call boxes that they replace¹.
8. 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'.
9. 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

10. The appeal proposal would be located close to four listed buildings² within the *buffer zone* of the Liverpool Maritime Mercantile City World Heritage Site (WHS)³ although some distance from any of 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.
11. 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 itself, means that it would not adversely affect the setting of the WHS.
12. The proposal would be located in a broad, hard-landscaped footway containing various pieces of street furniture including lampposts of various sizes and designs, a CCTV camera pole, a 2-sided information panel and a traffic sign.
13. Nevertheless, the width of the footway and the nearby streets, together with the adjacent plaza, 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.
14. I have had regard to the statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requiring decision makers

¹ In this case, the two call boxes to be removed are Nr Crown St West Derby St Liverpool, L7 8XL and Pembroke Place, Liverpool, L3 5PX.

² Students union (old part only) (Grade II); Victoria Building (Grade II); Ashton Building (Grade II); and, Physics, Biochemistry, Pathology and old anatomy schools together with former medical museum to rear (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."

(amongst other things) to have special regard to preserving the setting of a listed building or any features of special architectural or historic interest.

15. Whilst it would be seen in views of the Victoria Building, the proposal's size, orientation, design and position, together with the separation distances and the presence of other street furniture nearby, means that it would not significantly affect such a view and would not adversely affect the setting of the Victoria Building.
16. The Council has also referred to the impact of the proposal on two other listed buildings to the north of the Victoria Building. In my view the position of the proposal and the greater separation distance means that it would have a significantly lesser effect on views of these buildings and their settings, than it would have on the Victoria Building.
17. There would be a much smaller separation distance between the proposal and the northwestern corner of the Grade II listed Students Union building. However, this is a large building and together with the size, orientation, design and position of the proposal, this would limit its visual impact. When seen in the context of the road junction and the wider cityscape, near to existing pieces of similar sized or taller street furniture, it would not significantly affect views of the building and would not adversely affect its setting.
18. 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) and HD27 (Telecommunications Code Systems Operators) of the Liverpool Unitary Development Plan 2002 (LUDP) and with the Framework in this regard.

Pedestrian movement

19. As set out above, the proposal would be located in a broad footway, containing various existing items of street furniture. The width of the footway in the vicinity of the appeal site is some 10m, and whilst the proposal would increase the amount of street furniture here, the submitted site plan does not show that this would serve to significantly obstruct the footway.
20. No substantive evidence has been provided to show why the proposal would adversely affect the functioning of this pedestrian environment or would create harmful barriers to movement, including for people with disabilities. 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

21. I note that the Council did not include Highway safety amongst its reasons for refusal. However, with regard to the aforementioned linked appeal⁴, the adverse effect of the proposal on public safety, as a result of distraction to drivers was a reason for refusal of that application.

⁴ Ref: APP/Z4310/H/18/3205162

22. Whilst this appeal concerns the refusal of planning permission for the erection of an ILTU, rather than for the display of advertisements, I note that the appellant has provided a combined Appeal Statement for the two linked appeals and has addressed Highway safety, including distraction to motorised traffic, for both appeals within it⁵.
23. In my view, the effect on Highway safety of the ILTU can and should be considered in determining this appeal and neither party is disadvantaged by this.
24. The proposal would be more than 4.1m from the edge of the footway on Mount Pleasant, some 3.9m to the southwest of the information panel and some 4.2m southeast of a controlled pedestrian crossing, close to the junction with Brownlow Hill.
25. The proposal would include an integral LED display angled to face southwestwards towards traffic travelling northeastwards on Mount Pleasant and a similar display facing northeastwards. As set out above, the displays 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 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 Case⁶. 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 Limited⁷ commissioned and subsequently endorsed by Transport for London (TfL) to support their case. I note the disclaimer within this report⁸, 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 and traffic signals has been provided. Furthermore, whilst the submitted drawings show the pedestrian crossing, they do not show the 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.

⁵ Summary - Highway Considerations - page 11

⁶ Paragraph B.2.2

⁷ *Guidance for Digital Roadside Advertising and Proposed Best Practice* - 04 March 2013

⁸ '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.'

31. However, this is a busy area, with a high pedestrian footfall, by a University campus, and the appeal site is located a short distance from a traffic light-controlled pedestrian crossing and the junction of Mount Pleasant with Brownlow Hill. This is an area where drivers would need to concentrate in order to travel safely.
32. The proposal, which would be a new piece of street furniture, would be readily visible to vehicles travelling northeastwards along Mount Pleasant. Whilst partly obscured by other street furniture it would still be visible to vehicles travelling westwards along Brownlow Hill and turning south onto Mount Pleasant. Consequently, the size, orientation, design and position of the proposal means it 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, T8 and T9 (Road Safety) of the LUDP and with the Framework in this regard.

Other Matters

34. 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.
35. 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.
36. The appellant has provided copies of two appeal decisions⁹ 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.
37. 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.
38. 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 196¹⁰ of the Framework is not engaged.

⁹ Ref APP/Z4310/W/18/3205104 and APP/Z4310/W/18/3205102

¹⁰ The appellant refers to paragraph 197 in their final comments

Consequently, the weight given to the public benefits of the proposal in this regard does not arise in my decision.

Conclusion

39. 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.
40. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

Andrew Parkin

INSPECTOR