



## Appeal Decisions

Site visit made on 19 September 2023

**by K Stephens BSc (Hons) MTP MRTPI**

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

**Decision date: 13<sup>th</sup> November 2023**

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### **Appeal A Ref: APP/Z3445/W/22/3310033**

#### **Pavement o/s 2A Colehill, Tamworth B79 7HH**

- 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 BT Telecommunications Plc against the decision of Tamworth Borough Council.
  - The application Ref 0315/2022, dated 13 July 2022, was refused by notice dated 9 September 2022.
  - The development proposed is installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, and associated BT Phone Kiosk removal.
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### **Appeal B Ref: APP/Z3445/H/22/3310034**

#### **Pavement o/s 2A Colehill, Tamworth B79 7HH**

- 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 BT Telecommunications Plc against the decision of Tamworth Borough Council.
  - The application Ref 0316/2022, dated 13 July 2022, was refused by notice dated 9 September 2022.  
The advertisement proposed installation of 1no. new BT Street Hub, incorporating 2no. digital 75" LCD advert screens, and associated BT Phone Kiosk removal.
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### **Decision**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

### **Preliminary Matters**

3. The two appeals are part of a suite of 6 appeals submitted together for similar development and advertisement installations at 3 separate locations in Tamworth town centre. These are listed below in Appendix 1 and are the subject of separate decisions.
4. The two above appeals relate to the same site. Appeal A relates to the refusal of planning permission for the installation of a 'Street Hub'. Appeal B is against the refusal of advertisement consent for illuminated digital signs on either side of the Street Hub. I shall consider each appeal on its individual merits. However, as the hub and the advertisement are inextricably linked, I will deal with the two appeals in a single document to avoid duplication.
5. In respect of Appeal B, powers under the Regulations<sup>1</sup> to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. While not in themselves decisive

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<sup>1</sup> Town and Country Planning (Control of Advertisements) (England) Regulations 2007

in Appeal B I have taken into account policies cited as a material consideration where relevant.

6. During the course of the appeal, a revised National Planning Policy Framework (the Framework) was published on 5 September 2023 and replaces the previous version published in July 2021. However, as any policies that are material to this decision have not fundamentally changed in the Framework, I am satisfied that this has not prejudiced any party. I have had regard to the latest version in reaching my decision.

## **Main Issues**

7. Following the appellant's clarification of daytime and nighttime luminance levels of the proposed advertisements, the Highways Authority has no objection on highway safety grounds. The Council has subsequently confirmed that the refusal reasons relating to luminance are no longer relevant to both appeals. Therefore, there is no need for me to consider this matter further.
8. In light of the above, the main issues are:

For Appeals A and B:

- The effect on the character and appearance and visual amenity of the area, having regard to the Tamworth Town Centre Conservation Area (the 'CA') and the setting of nearby listed buildings.

For Appeal A:

- The effect of the proposal on the safe movement of pedestrians.

## **Reasons**

### *Character and appearance/visual amenity (Appeals A and B)*

9. The appeal site occupies part of the wide pavement on Colehill, which is to the eastern end of Tamworth town centre and within the CA, which comprises the town's older centre with its street pattern, buildings displaying a variety of architectural styles, and the castle and its wider grounds by the river. The heritage significance of the CA is hence derived principally from its architectural and historic interest reflecting the social and economic development and growth of Tamworth.
10. Colehill is a main route to the town centre for pedestrians from a number of car parks and contains a number of old buildings, most 2-3 storeys tall, mainly in retail and other commercial uses, and a substantial amount of street furniture. Nonetheless Colehill is a quieter commercial area with a more intimate character and appearance, with minimal signage and is of a smaller scale than the wider retail thoroughfare of George Street with its larger retail buildings.
11. There are also a number of listed buildings along Colehill and in the vicinity of the site. My attention is drawn to three-storey properties Nos.10 and 11 opposite the appeal site and the 2-storey No.1 Colehill on the same side as the appeal site but closer to the junction with George Street. Further along Colehill there are Nos.8 and 9. Whilst the individual buildings have their own specific historic and architectural interest as part of Tamworth's evolution, in the context of this appeal the setting of the various listed buildings is primarily associated with their visibility as part of the commercial street setting and

wider street scape. Hence the wide footway at the appeal site provides the space in which to experience and appreciate the setting of the listed buildings, and other heritage assets, thereby contributing to their significance.

12. The proposal would introduce a Street Hub, part of a national BT project to replace existing telephone kiosks, many of which have fallen into disrepair. It would be a freestanding double-sided internally illuminated digital advertising board with 75" LCD display screens on each side. The structure would measure approximately 2.98m tall x 1.2m wide and 0.35m deep. It would be made of powder coated galvanised mild steel. On the edge of the display structure there would be a small interactive digital display screen which can be used to make free UK and emergency phone calls and access local council services, with integrated microphone and speaker. The facility would also provide free Wi-Fi, improved 5G telecommunications coverage, and USB charging points.
13. The area where the Street Hub would be located is part of a wide pavement. The proposal, by reason of its height and width, even if relatively slender, would be an unduly dominant and intrusive feature in this quieter commercial traditional street when compared to the scale and type of other surrounding street furniture. Consequently, the proposal would detract from the street scene and would not preserve or enhance the character and appearance of the CA. Furthermore, the large internally illuminated advertisement panels on either side of the structure would be particularly obtrusive and a visual intrusion in the street. As a result, the proposal would reduce the ability to appreciate the nearby listed buildings in the street scene and hence diminish their setting, harming their significance, as well as the character and appearance of the CA.
14. Even if the brightness of the signs fell within luminance levels approved by the national Institution of Lighting Engineers Technical Report, the proposal would nonetheless be at odds with the overall surrounding low-key shopfront fascia illumination. As a result, the position of low level free standing illumination close to the road edge some distance from the nearest building would draw attention to the presence of a large physical structure. It would therefore be unduly prominent in the street scene to the detriment of visual amenity.
15. There is no telephone kiosk on Colehill to replace. Instead, the proposed Street Hub would replace 2 telephone kiosks some distance away - one outside 18 Victoria Road and one outside 134 Amington Road, with no physical or visual relationship with the appeal site. Whilst the proposal may reduce the number of telephone kiosks in Tamworth overall, the proposal would not reduce street furniture in Colehill or offer any visual betterment. Instead the proposal would introduce new street furniture.
16. In accordance with my statutory duties<sup>2</sup> and paragraph 199 of the Framework I attach great weight to the conservation of the designated heritage assets and to the harm that would be caused to them. Whilst the harm caused to the significance of the heritage assets would be less than substantial, paragraph 202 of the Framework states that the harm should be weighed against the public benefits.
17. The appellant advances a number of benefits. The proposal would accord with the government's digital strategy and national policy (Framework paragraph

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<sup>2</sup> under Section 66(1) and 72(1) of the Listed Buildings and Conservation Areas Act 1990.

114) which recognises the importance of advanced, high quality and reliable communications infrastructure to economic growth and social wellbeing. It would provide replacement facilities and technology for making public phone calls in an environment where some users might feel safer than being inside a kiosk, although this would be limited in scale. There would be improved Wi-Fi connections for residents and visitors in the town centre, including 'wayfinding' maps which may encourage visitors and residents to explore more of the town on foot and bike. Whilst there may be some associated benefits and some synergy with Council policies to encourage other modes of transport and improve the local economy, the scale of any benefits would be limited by one Street Hub. Any benefits from removing two rundown telephone kiosks elsewhere in Tamworth would have no effect on Colehill where there are currently no existing telephone kiosks. Whilst the proposal is part of a wider plan by the appellant to improve digital communications, there is nothing to indicate that this can only be achieved by the proposed Street Hub for Colehill.

18. The appellant draws my attention to a number of Council and appeal decisions. The one described in Tamworth's Conservation Area was for replacement, but smaller, signage on an existing bus shelter. The other examples are in different cities in other parts of the country. Even if modern Street Hubs have been allowed in other historic environments elsewhere, all decisions turn on their own characteristics and site-specific issues based on the facts before each decision-maker at the time. Hence the examples are not directly comparable to the appeal proposal, which I must consider on its own merits.
19. I conclude that the public benefits of the proposal do not outweigh the harm that would be caused to the significance of the CA and the nearby listed buildings.
20. For the reasons above I conclude that the proposal would fail to preserve or enhance the character or appearance of the CA and fail to preserve the setting of nearby listed buildings. It would also harm the visual amenity of the area. For Appeal A it would also conflict with Policies EN5 and EN6 of the Tamworth Local Plan. Collectively these seek to ensure high quality places are achieved across Tamworth, with particular attention paid to the enhancement of conservation areas, and that scale, form, height, massing, detailing and materials of the development respect the physical context to which it relates.

#### *Pedestrian movements (Appeal A)*

21. There is existing street furniture along Colehill and in the immediate vicinity of the site I saw a litter bin and freestanding information board. They were located in a linear formation along the outer edge of the pavement. Therefore, pedestrians already have to navigate their way around the line of street furniture.
22. The submitted plans show the proposed 'Street Hub' would be positioned in line with this existing street furniture. As such pedestrians would navigate around the Street Hub as part of the other street furniture. However, the pavement is wide - the submitted plans show there would be approximately 4.5m distance between the frontage of the nearest shop to the edge of the Street Hub. Hence there would continue to be sufficient room for pedestrians, including those who are partially sighted, elderly or disabled or those with pushchairs, to pass between the Street Hub and the shops in either direction along Colehill without significant impediment.

23. Nearby there is a vehicular access to the rear of some of the retail properties and I understand it also serves as the main construction access for the new South Staffs College building. Afterwards it would be the main service access for the college and there would likely be an increase in pedestrian footfall. The construction phase would, however, be temporary. Afterwards any vehicles crossing the pavement would have to exercise due care in a semi-pedestrianised environment. The Highway Authority has not raised highway safety concerns arising from turning vehicles and from my observations I have no reason to take a different view.
24. Vehicles and cyclists would continue to pass along the demarcated 'road' part of Colehill, which would not be reduced in width by the proposal. Pedestrians can also carefully walk in the road across the paved surface, as I saw to be the case on my visit. From the evidence before me and what I saw I am satisfied that the Street Hub would not be a dangerous obstacle in the street scene, would not impede the free flow of pedestrians and hence would not adversely affect the safe movement of pedestrians.
25. Accordingly, there would be no conflict with Framework paragraph 112 which promotes, amongst other things, that priority is given first to pedestrians and that places are designed to minimise the scope for conflicts between pedestrians, cyclists and vehicles.

## Conclusion

26. I have found the proposal would harm the visual amenity and the character and appearance of the CA and the setting of nearby listed buildings. The absence of harm to the safe movement of pedestrians carries neutral weight in my considerations. In relation to Appeal A there would also be conflict with the development plan and this harm outweighs any public benefits of the proposal. Accordingly, both Appeal A and Appeal B should be dismissed.

*K Stephens*  
INSPECTOR

## Appendix 1: List of linked appeals

|          | <b>Appeal Case Reference</b> | <b>Site Location</b>                          |
|----------|------------------------------|-----------------------------------------------|
| Appeal A | APP/Z3445/W/22/3310033       | Pavement o/s 2A Colehill, Tamworth            |
| Appeal B | APP/Z3445/H/22/3310034       | Pavement o/s 2A Colehill, Tamworth            |
| Appeal C | APP/Z3445/W/22/3310035       | Pavement o/s 30 George Street, Tamworth       |
| Appeal D | APP/Z3445/H/22/3310036       | Pavement o/s 30 George Street, Tamworth       |
| Appeal E | APP/Z3445/W/22/3310037       | Pavement opposite 12A Silver Street, Tamworth |
| Appeal F | APP/Z3445/H/22/3310038       | Pavement opposite 12A Silver Street, Tamworth |