



Committee and date
Northern Planning Committee
6th December 2022

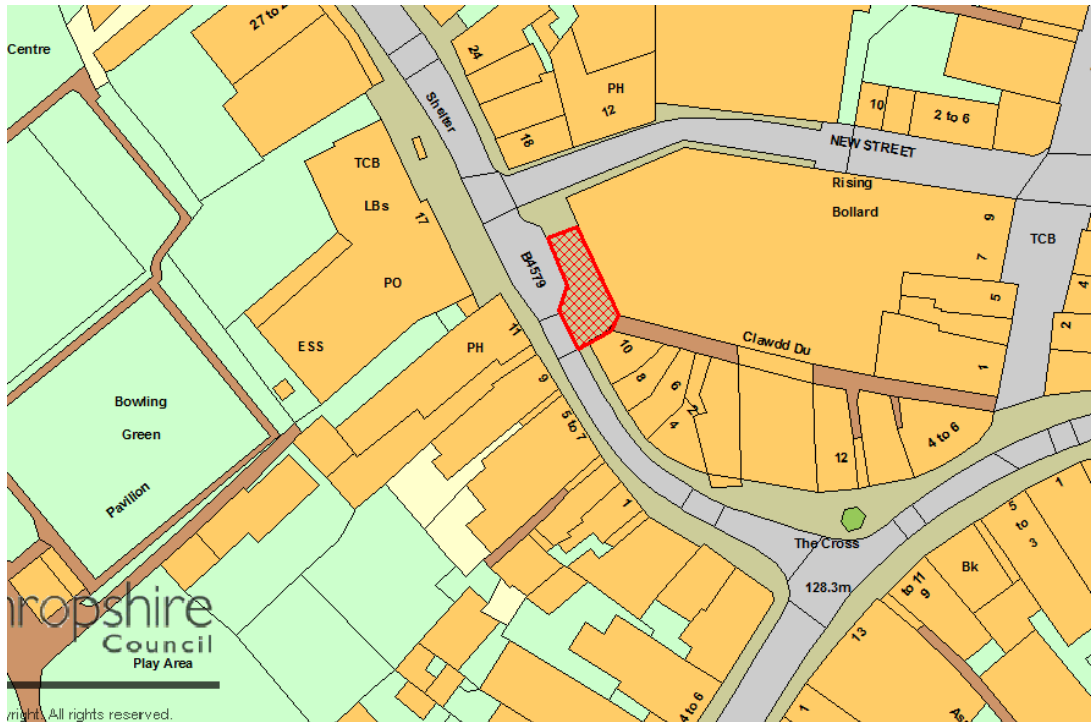
Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

Summary of Application

Application Number: 22/03900/ADV	Parish:	Oswestry Town
Proposal: Erect and display one 75" LCD advert screens		
Site Address: Pavement Outside 17 Willow Street Oswestry Shropshire SY11 1AB		
Applicant: Mr James Browne		
Case Officer: Sara Robinson	email: sara.robinson@shropshire.gov.uk	

Grid Ref: 328983 - 329631



Recommendation:- Refusal.**Recommended Reason for Refusal**

It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Oswestry Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF.

REPORT**1.0 THE PROPOSAL**

- 1.1 This application for advertisement consent has been described as 'Erect and display 1No 75" LCD advert screens'. The application has been submitted concurrently with an application for full planning permission (22/03899/FUL) for the 'Installation of 1no. new BT Street Hub, incorporating 75" LCD advert screens plus the removal of associated BT Kiosks'.
- 1.2 The proposed hub/kiosk measures 2.960 metres high x 1.236 metres wide and 0.350 metres deep. The hub incorporates an LED static digital display screen on both sides each measuring 1.670 metre high and 0.95 metres wide. The application for advertisement consent is therefore to display 2 illuminated signs.
- 1.3 This report relates to consideration of the erection and display of the illuminated signs only having regard to the relevant legislation, guidance and policy.

2.0 SITE LOCATION/DESCRIPTION

- 2.1 The application site although addressed as outside 17 Willow Street, Oswestry where the existing BT kiosk is located, the proposed hub is to be located on the pavement adjacent to 10A Willow Street and to the rear of 7 Bailey Street (Home Bargains).
- 2.2 The proposed Hub will be located to the rear of Home Bargains which is a relatively modern building and will be in close proximity to 10A Willow Street which forms commercial shop fronts on the ground floor. The site is within the Conservation

Area and will be directly opposite The Boars Head which is a Grade II listed building and will also be located adjacent to 18 and 20 Willow Street which are also Grade II listed.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application relates to land owned by the Council and the proposal is not in-line with statutory functions.

4.0 Community Representations

4.1 Consultee Comment

4.2 SC Archaeology - 22/09/2022

We have no comments to make on this application with respect to archaeological matters.

4.3 SC Conservation - 22/09/2022

22/03900/ADV and 22/03899/FUL BT Street Hub Pavement on Clawdd Du, Oswestry

The submission, a product statement prepared by BT explaining what a digital street hub is, its design and specifications and various photographic images of these structures in urban environments has been provided. Drawings, existing street scenes and photo mock-ups relevant to each proposed location in Oswestry and the existing phone kiosks these would replace have also been prepared along with a short heritage statement including an impact assessment relevant to the location.

The proposed hub is in Oswestry Conservation Area, and is within the setting of several listed buildings and historic built forms where co-visible and inter-visible views within the historic street scene exist.

We would advise that in considering this type of proposal, due regard to the following local and national policies and guidance would be required in terms of historic environment matters: CS6 Sustainable Design and Development and CS17 Environmental Networks of the Shropshire Core Strategy, Policies MD2 and MD13 of the SAMDev component of the Local Plan, the National Planning Policy Framework (NPPF), as well as relevant Historic England guidance including GPA3 The Setting of Heritage Assets. As the proposed installation of these structures would be within the Conservation Area, legislatively the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 would apply in terms of the extent to which this proposal would preserve or enhance the character or appearance of the Conservation Area. Additionally Section 66 of the Act would be applicable where the Act requires the need to pay special regard to the preservation of listed buildings and their settings.

These relatively large and tall structures with their predominant digital advertisement screens, and their proposed placement within the public realm and within the Conservation Area, our Team would highlight the harmful impact these

structures would potentially have on the character and appearance of the street scene and on the immediate and wider setting and appearance of designated and non-designated heritage assets which make up and contribute to the town centre streetscape near these proposed installations.

Due to the scale, height, siting, design and illumination of these structures they would be overtly visually obtrusive within the street scene, introducing illuminated advertising into the public realm and adding clutter to the pavement. Within the wider context these illuminated structures have the potential to compete visually with historic buildings which contribute positively to the town centre, where these digital structures may harm their setting.

While we would likely raise no objection to the removal of existing modern phone kiosks, their relatively neutral form and appearance as street furniture within the public realm is noted. In this case we note that whilst it is suggested within the supporting statement provided that the hub will replace a BT phone box. This is not the case as the phone box is across the road by an existing bus stop shelter and the Post Office/Wetherspoons building.

It is our view that this type of development within the Conservation Area would be harmful, adding visual clutter to the street scene while undermining the setting and appearance of nearby listed buildings. While this would likely represent less than substantial harm, it would be harm none the less, where great weight needs to be given to the conservation of designated heritage assets. This type of installation would neither preserve or enhance the character or appearance of the Conservation Area, would impact on the setting of listed buildings within the Conservation Area, and would be contrary to relevant policies as outlined above which seek to protect and enhance the historic environment.

4.4 SC Highways - 18/10/2022

Shropshire Council as Highway Authority raises no objection to the granting of consent of the above-mentioned planning application. If permitted, it is recommended that the applicant and contractor contacts Shropshire Councils Streetworks team to obtain the necessary permission to carry out work on the highway.

4.5 **Public Comments**

4.6 None received.

4.7 Oswestry Town council - 28/09/2022

Stance: Customer made comments in support of the Planning Application
Comment: Resolved no observations be expressed

Following the display of a site notice for the period of 21 days, no public representations were received at the time of writing this report.

5.0 **THE MAIN ISSUES**

In accordance with the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and the Town and Country Planning (Control of Advertisements) Regulations 2007 (Advert Regulations), applications for advertisement consent are considered against the following issues:

- Impact upon public safety
- Impact on the amenity of the area.

Regulation 3 of the Advert Regulations indicates that local planning authorities in considering the impact on amenity and public safety can take into account the provisions of the development plan, in so far as they are material, and any other relevant factors.

6.0 OFFICER APPRAISAL

6.1 Impact upon public safety

6.1.1 Regulation 3(2)(b) of the Advert Regulations indicates that factors relevant to public safety include 'the safety of persons using any highway'.

6.1.2 The proposed hub will replace an existing BT phone box, however the hub will not occupy the same location as the phone box and will be located on the opposite side of the road. The proposed Hub will be located adjacent to a wooden flower planters and Home Bargains. The hub will still allow 4m width of pavement between the proposed Hub and the highway. The location is a busy public highway for both vehicular and pedestrian traffic. The Highways have not objected to the proposed advert/BT Hub.

6.1.3 It is not considered that the proposal would adversely impact on public safety or the safety of persons using the highway.

6.2 Impact on the amenity of the area

6.2.1 Regulation 3(2)(a) of the Advert Regulations indicates that factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The relevant development plan policies include SAMDev Policies MD2 and MD13 and Core Strategy Policies CS6 and CS17.

6.2.2 SAMDev Policy MD2 (Sustainable Design) and Core Strategy Policy CS6 (Sustainable Design and Development Principles) requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character and should safeguard local and residential amenity.

6.2.3 The proposed site is situated within Oswestry Conservation Area and the proposal therefore also has to be considered against national policies and guidance that relate to heritage assets including section 16 of the National Planning Policy Framework (NPPF). Paragraph 136 of the NPPF is also relevant and indicates that

'The quality and character of places can suffer when advertisements are poorly sited and designed'.

6.2.4 Shropshire Council policies MD13 and CS17 seek to ensure that development protects and enhances the local character of the built and historic environment. Special regard has to be given to preserving or enhancing the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

6.2.5 A Heritage Statement and Design and Access statement has been submitted that identifies that any harm associated with the proposal should be balanced against the public benefits identified. However, the LPA cannot take into consideration the benefits of a proposal when determining an application for advert consent as any benefits of the proposed adverts (if there are any) or the benefits of the associated hub are not considered to be 'other relevant factors' referred to in Regulation 3(1)(b) and 3(2)(a) of the Advert Regulations.

The PPG advises that:

'in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.

This might mean that a large poster-hoarding would be refused where it would dominate a group of listed buildings, but would be permitted in an industrial or commercial area of a major city (where there are large buildings and main highways) where the advertisement would not adversely affect the visual amenity of the neighbourhood of the site'.

6.2.6 The proposal is for an LED digital display screen over 1.5 metre high and almost 1 metre wide to be displayed on both sides of a BT hub that will be just short of 3 metres high. The submitted Heritage Statement (HS) indicates that:

'The application site is located along a well-lit stretch of pavement of the Willow Street which is a busy public highway for both vehicular and pedestrian traffic. There is an array of established street furniture along this section of pavement including signposts, traffic signals, bus shelter and bollards. Whilst these modern, commercial surroundings are seen as an entirely appropriate location for a BT Street Hub unit, it is noted that the site is found in proximity to several listed buildings and within Oswestry Town Centre Conservation Area. Whilst the important scenic, historic and architectural features of this building and wider area are noted, it is argued that the primary setting of the application site outside Home Bargains, partnered with the Street Hubs unique features will benefit the surrounding community.

6.2.7 *It needs to be reiterated that the development in question is for the upgrade of existing pieces of street furniture found. Given these telephone booths with their*

incorporated advertisements have already been accepted as part of this historical environment, the proposed BT Street Hub development will be able to effectively assimilate into a busy street scene where the precedent for modern communication infrastructure has already been set. As such due to the scale of development and wider setting of the locality, any impact by the proposal on the nearby listed buildings and Conservation Area is expected to be minimal.

- 6.2.8 *Furthermore, it is considered that any minor to negligible harm that could be caused would be significantly outweighed by the removal of the existing BT kiosk and the myriad of public benefits the Street Hub will bring to residents, businesses and tourists in this part of Shrewsbury. It is also believed that the decluttering of the pavement outside of Willow Street and upgrade of old street furniture will be to the betterment of the Oswestry Town Centre Conservation Area and help to enhance the character of nearby heritage assets including the Grade II listed buildings.'*
- 6.2.9 It is accepted that the proposed hub will replace an existing BT call box, however the proposed Hub will be almost a metre higher than the phone box it will replace and will not be within the same location as the call box it is proposed to replace. The advertising material on the existing phone box to be removed is not illuminated and the majority of shop fronts in this location and within the town centre generally are also non-illuminated. It is considered that the scale of the proposed hub and illuminated signs will be totally out of proportion to its setting and out of keeping with the character of the area.
- 6.2.10 It is agreed with the Conservation officer that the proposed tall modern structure with illuminated screens on both sides would be a visually dominant and prominent feature in the immediate and wider street scape and also in longer views of the site and would be very much out of character within the context of the site and would negatively impact on the setting of nearby listed buildings and the character and appearance of the conservation area and therefore visual amenity.
- 6.2.11 It is considered that the proposal would be contrary to paragraph 136 of the NPPF as due to the siting, scale and design of the sign the proposal would adversely impact on the quality and character of the locality. It would be the first sign of this type within Oswestry town centre and would appear out of place and prominent and would not assimilate into the street scene or make a positive contribution to the street scene.
- 6.2.12 It is also agreed with the Conservation officer that whilst the BT hubs of the scale proposed might be appropriate in the context of a larger urban centre characterised by contemporary built forms of much larger scale and modern appearance and within wider spaces they are not appropriate in a small historic town such as Oswestry. The town centre is of a much smaller scale where it is characterised by historic buildings and a much more pedestrian-scale streetscape and the applicant has been asked to explore alternative sites and/or a smaller version of the BT hub that would be more appropriate for installation in smaller historic towns such as Oswestry.

7.0 CONCLUSION

7.1 It is considered that the proposed double sided illuminated sign due to its scale, design and method of display and having regard to the character of the area in which it will be located including the immediate locality and also wider views of the site, would be detrimental to visual amenity and have an adverse visual impact on the character and appearance of the street scene, the setting of nearby listed buildings and this part of Oswestry Conservation Area. The proposal is therefore considered to be contrary to local plan policies MD2, MD13, CS6 and CS17 and fails to meet the criteria of national guidance and policy including paragraph 136 and 197 of the NPPF and also fails to preserve or enhance the character or appearance of the Conservation area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The application is therefore recommended for refusal in accordance with the reason as set out at the start of this report.

8.0 Risk Assessment and Opportunities Appraisal

8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal, i.e. written representations, hearing or inquiry.
- The decision may be challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be made a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

8.2 Human Rights

Article 8 gives the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be

balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in Planning Committee members' minds under section 70(2) of the Town and Country Planning Act 1990.

9.0 Financial Implications

There are likely financial implications if the decision and / or imposition of conditions is challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependent on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar as they are material to the application. The weight given to this issue is a matter for the decision maker.

10. Background

Relevant Planning Policies

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

CS3 - The Market Towns and Other Key Centres
CS6 - Sustainable Design and Development Principles
CS17 - Environmental Networks
MD2 - Sustainable Design
MD13 - Historic Environment
National Planning Policy Framework

RELEVANT PLANNING HISTORY: _

21/05988/FUL Various improvements to the pedestrian route including: resurfacing of the alleyway, improved planting/seating/lighting; installation of gates and the introduction of steel arches GRANT 2nd March 2022
 22/03899/FUL Installation of one BT Street Hub incorporating 75" LCD advert screens plus the removal of associated BT Kiosks PCO
 22/03900/ADV Erect and display one 75" LCD advert screens PCO

11. Additional Information

View details online: <http://pa.shropshire.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RH4SRLTDIHB00>

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) - Councillor Richard Marshall
Local Member Cllr Duncan Kerr
Appendices APPENDIX 1 – Conditions - None

APPENDIX 1

Conditions

STANDARD CONDITION(S)

CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES

CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT

CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT

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