
Appeal Decisions

Site visits made on 8 October 2019 by AJ Sutton BA Hons DipTP DMS MRTPI

by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2020

Appeal A: Ref: APP/B1605/Z/19/3227845

Os Waterstones, 33-41 Promenade, Cheltenham, GL50 1LE

- 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 Mr Nathan Still (Infocus Public Networks Ltd) against the decision of Cheltenham Borough Council.
 - The application Ref 18/02535/ADV, dated 27 November 2018, was refused by notice dated 25 April 2019.
 - The advertisement proposed is described as 'the display of single illuminated sequential display affixed to the frame of the communication hub'.
-

Appeal B: Ref: APP/B1605/Z/19/3227843

Os Hotel Chocolate, 56 Promenade, Cheltenham, GL50 1LY

- 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 Mr Nathan Still (Infocus Public Networks Ltd) against the decision of Cheltenham Borough Council.
 - The application Ref 18/02534/ADV, dated 27 November 2018, was refused by notice dated 25 April 2019.
 - The advertisement proposed is described as 'the display of a single illuminated sequential display affixed to the frame of the communication hub'.
-

Appeal C: Ref: APP/B1605/Z/19/3227842

Os Russell Bromley, 100 Promenade, Cheltenham, GL50 1NB

- 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 Mr Nathan Still (Infocus Public Networks Ltd) against the decision of Cheltenham Borough Council.
 - The application Ref 18/02533/ADV, dated 27 November 2018, was refused by notice dated 25 April 2019.
 - The advertisement proposed is described as 'the display of a single illuminated sequential display affixed to the frame of the communication hub'.
-

Appeal D Ref: APP/B1605/Z/19/3227841

Os The Quadrangle, Swallow Bakery, Promenade, Cheltenham, GL50 1PZ

- 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 Mr Nathan Still (Infocus Public Networks Ltd) against the decision of Cheltenham Borough Council.
 - The application Ref 18/02532/ADV, dated 27 November 2018, was refused by notice dated 25 April 2019.
 - The advertisement proposed is described as 'the display of single illuminated sequential display affixed to the frame of the communication hub'.
-

Decisions

1. All of the appeals are dismissed.

Appeal Procedure

2. The site visits were undertaken by an Appeal Planning Officer whose recommendations are set out below and to which the Inspector has had regard before deciding the appeals.

Preliminary Matters

3. The proposals are for advertisements incorporated into a glazed panel on the reverse side of a free standing communication hub for which the appellant has sought separate consents. At the time of conducting the site visits, the hubs were not in situ. The appellant has however provided plans and images of the proposed communication hubs which were submitted with the respective applications. This information is considered material in so much as it provides clarity as to the overall appearance of the proposed advertisements. However, beyond this these decisions are limited to the consideration of the proposals before me.
4. The Council has drawn my attention to the policies and guidelines it considers to be relevant to these appeals and I have taken them into account as material considerations where relevant. However, powers under the Regulations¹ to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. The National Planning Policy Framework and the Planning Practice Guidance (PPG) reiterate this approach. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

Main Issue

5. The proposals, by virtue of their location and design, would not affect public safety. This is not disputed. The main issue in each case is the effect of the proposed advertisements on the visual amenity of the area.

Reasons for Recommendations

6. The appeal sites are located within the commercial centre of the town within the Cheltenham Central Conservation Area (CCCA). I am therefore mindful of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which sets out that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
7. Whilst amenity is not defined exhaustively within the Regulations, it does indicate that relevant factors include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The PPG states 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

¹ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)

authority would consider whether it is in scale and in keeping with these features’.

8. The Promenade is a central unifying feature at the core of the CCCA. The attractive tree lined avenue commencing at the edge of the High Street and stretching in a southerly direction, is interspersed with pedestrian areas, parks, open spaces, historic buildings and high end commercial and retail premises. The concentration of landmark and other listed buildings strongly influences the overall character of the area, illustrating its significance within the relatively well-preserved Regency town.
9. The appellant has described the advertisement in each case as including ‘a 85” screen used to display both commercial and community information and will feature the latest high definition LCD product with the luminance level adjusted via an inbuilt light sensor and limited to a maximum 600Cdm2 at night time’. The advertisement would be positioned in four different locations within the CCCA as described above, and whilst included in the same decision letter, each advertisement has been considered on its own merits.

Appeal A

10. The appeal site is centrally located within a wide tree lined pedestrian area close to the frontage of Waterstones. The pavement, in the immediate area of the appeal site, is open and uncluttered with no advertising evident beyond low key shop signage/branding. The façade of Waterstone contributes to the historic distinctiveness of the area forming part of a terrace of Grade II listed buildings and is sited opposite the Cavendish House building. Street furniture is well spaced and is limited to a muted palate, comprising a number of seats, a striking, yet subtly toned piece of public art, café outside seating areas, bollards, street lamps and bicycle racks, with the only significant splash of colour provided by the group of K6 telephone boxes.
11. The introduction of a large illuminated, changing image advertisement in this location would be a bold, modern and inharmonious addition to the existing pleasant historic street scene. It would result in an incongruous, prominent addition into the street scene which would be significantly at odds with the largely restrained advertisements within the area. Harm to the visual amenity of the area would therefore result and the proposed advertisement would not preserve or enhance the character or appearance of the conservation area, in conflict with the aims of Policy BE 13 of the Cheltenham Borough Local Plan Second Review 2006 (LP) which requires advertisements in conservation areas to be appropriate in type, size, colour, illumination and location to the character of the site and surrounding area.

Appeal B

12. The appeal site is located close to appeal site A, where the footpath widens at the south eastern edge of the pleasant pedestrian area. Advertising is limited to shop fascia signs in the immediate area, with two information totems, sympathetically designed, reflective of the public artwork and positioned with a sense of balance, one close to the appeal site and the other at the north eastern edge of the pedestrian area.

13. The introduction of a large, solid, advertisement of the nature proposed in this prominent location would be intrusive and incongruous within the street scene. It would be harmful to the attractive qualities of this part of the town and would unbalance the simple symmetry achieved by the existing information boards situated on this side of the pedestrian area. Harm to the visual amenity of the area would therefore result. The proposed advertisement would not preserve or enhance the character or appearance of the CCCA. As a consequence, the proposal would conflict with the aims of Policy BE 13 of the LP which requires advertisements in conservation areas to be appropriate in type, size, colour, illumination and location to the character of the site and surrounding area.

Appeal C

14. The appeal site is located on the pavement, fronting a row of retail outlets, which connects the pedestrian area to the Quadrangle junction. It is opposite the Municipal Offices. The pavement, in this area, is tree lined interspersed with bus shelters. Beyond this, street furniture is limited to street lamps and bollards. Shop fascia signs are muted in all respects, and the bus shelters are devoid of advertisements of any description.
15. The proposed advertisement would result in a large illuminated advert in a prominent location within the street scene which would be out of character with prevailing signage, street furniture and the overall high-quality retail centre that distinguishes this part of the Promenade. The proposal would not harmonise with the existing appearance of the area and would be visually harmful. It would not preserve or enhance the character or appearance of the CCCA. The proposal would conflict with the aims of Policy BE 13 of the LP which requires advertisements in conservation areas to be appropriate in type, size, colour, illumination and location to the character of the site and surrounding area.

Appeal D

16. The appeal site is located near the Quadrangle building, a modern office block situated at a busy pedestrian and road node which forms part of the southern link around the town. The advertisement would be positioned on the pavement, which is wide and generally free from street furniture other than black street lamps and matching bollards. There are a number of landmark sites and buildings visible from the appeal site including Neptune's Fountain, Municipal Offices and Queen's Hotel which are listed buildings.
17. The tree lined avenue, despite being heavily trafficked, is also a pleasant pedestrian route between the key historic areas of the Regency town. Although on the boundary of a vibrant retail centre, overt advertising is not evident in the surrounding area.
18. Although the Quadrangle itself is of little architectural merit, the pavement which rises towards the Queen's Hotel is relatively unspoilt with signage limited to that associated with tourist information. The addition of a large, pedestrian level, illuminated advertisement would be particularly prominent in the wider street scene jarring with the distinct historic setting and would as a consequence be harmful to the visual amenity of this attractive area. It would fail to preserve or enhance the character or appearance of the conservation

area. The proposal would conflict with the aims of Policy BE 13 of the LP which requires advertisements in conservation areas to be appropriate in type, size, colour, illumination and location to the character of the site and surrounding area.

Other Matters

19. There are numerous listed buildings close to the proposals. The statutory duty² applicable to listed buildings is confined to the consideration of whether to grant planning permission, therefore for the purposes of these decisions the effect of the proposals on listed buildings and their settings is material in so far as their effects on the visual amenity of the area. The concentration of listed buildings characterises the area, however the proposals, individually, by virtue of their relative proximity to the listed buildings would not have a harmful effect on their appearance and would not visually harm their immediate setting. The significance of nearby listed buildings as heritage assets would not be adversely affected by the proposed advertisement in each case.
20. The importance of communication infrastructure, wider connectivity and improvements to service for the public and the necessity of advertising revenue to support communication hubs are matters outside the scope of these decisions, as are any potential benefits derived by shoppers viewing the adverts. Furthermore, the proposed scheme of conditions would not address the harm to amenity identified above. These matters do not justify harmful advertisement material.

Conclusions and Recommendations

21. For the reasons outlined above I conclude that each of the proposals would harm the visual amenity of the area. I therefore recommend that each appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decisions

22. I have considered all the submitted evidence and the Appeal Planning Officer's report and on this basis all of the appeals A-D are dismissed.

RC Kirby

INSPECTOR

² s66(1) Planning (Listed Buildings & Conservation Areas) Act 1990