



Appeal Decision

Site visit made on 18 February 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

Appeal Ref: APP/C1055/Z/19/3239079

The Friary, 104 Friar Gate, Derby DE1 1FG

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against conditions imposed when granting express consent.
- The appeal is made by Stonegate Pub Company Ltd against the decision of Derby City Council.
- The application Ref 19/01114/ADV dated 31 July 2019, was approved on 3 October 2019 and express consent was granted subject to conditions.
- The application sought advertisement consent for retention of 1no. set of non-illuminated fascia lettering, 1no. externally illuminated projecting sign and 1no. internally illuminated freestanding 'poster box' sign.
- The condition in dispute is No 4 which states:
(4) This decision does not extend to include advertisement consent for the internally illuminated freestanding box sign (detailed as Item 03 on the submitted drawings).
- The reason given for the condition is:
(4) In the opinion of the Local Planning Authority, the internally illuminated freestanding box sign, by reason of its prominent siting, inappropriate 'poster box' style, materials and inappropriate source of illumination, detracts from the character and appearance of the application property and has a harmful impact on the setting of this grade II* listed building and the character and appearance of the wider Friar Gate Conservation Area. Accordingly this element of the proposals fails to comply with saved policies E18, E19 and E26 of the adopted City of Derby Local Plan Review, policy CP20 of the Derby City Local Plan - Part 1 (Core Strategy), the advice contained within Derby City Council's Draft Shopfront and Advertisement Guidance Document and the provisions of the National Planning Policy Framework.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal forms indicate that the reason for the appeal was that the Council had refused consent for the advertisements shown on the application form. However, the decision notice grants advertisement consent subject to conditions. The applicant has since confirmed that the appeal is not made in respect of all the signage, just Item 03 on the submitted drawings, which was omitted from the approved scheme by the Council through the imposition of Condition 4. Accordingly, the appeal is made against this condition under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. My site visit confirmed that the sign subject of the disputed condition is already in situ. The appeal is therefore made retrospectively.

Main Issue

4. The main issue is whether condition 4 is reasonable and necessary having regard to the effect of the proposal on the visual amenity of the area.

Reasons

5. The appeal site is situated within the Friar Gate Conservation Area the significance of which derives from its generally linear form with buildings often displaying high-quality traditional architecture. The building on the site is the Grade II* Listed 'Friary Hotel', a fine three-storey mid C18 building with attractive architectural elements.
6. I have a statutory duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and the setting of Listed Buildings. The National Planning Policy Framework (2018) (the Framework) requires great weight to be given to the conservation of designated heritage assets and that any harm to an asset should require clear and convincing justification. The Framework also says that the quality and character of places can suffer when advertisements are poorly sited and designed.
7. Within the context of the part of the CA where the appeal site is located, signage generally consists of fascia and hanging signs with simple detailing. Where signs are illuminated, this is more often by way of external lighting. The signage associated with the commercial units opposite the appeal site on Friar Gate generally demonstrates how the design, materials and lighting of advertisements can respond positively to the traditional context of the CA. In contrast, the sign omitted from the approved scheme by virtue of condition 4 incorporates an internally illuminated black framed poster display box which is mounted on two posts. Slatted Perspex letters in a 'movie theatre' style are incorporated. These features give the sign a contemporary appearance which appears alien within the street scene. The incongruity of the sign is exacerbated by its position close to the front boundary of the site, close to street level.
8. As a result of the above factors, the design of the freestanding box sign does not respond positively to the position of the site within the CA and to the frontage of a Grade II* listed building and is therefore harmful to the visual amenity of the area.
9. The appellant suggests that the white, red and black colour scheme of the sign blends tonally with the listed building. Any harmony between the colours utilised with features of the Listed Building is diminished by the overall discordant design in the context of the setting of the CA and the Listed Building. Reference has been made to A-board signs used in the area with the suggestion that they obstruct pavements, whereas the proposed sign does not impact on public safety. However, I am not aware of the legality of any such A-board signs and do not find that they act as justification for the inappropriate design of the sign subject of this appeal.

10. I am not persuaded by the evidence before me that the sign in question is essential to ensure the economic viability of the business or the continued occupation and maintenance of the listed building, nor that the specific design of the sign is the only way to achieve the desired presence within the street. Any public benefit that could be directly attributed to the sign is therefore likely to be limited. In any case, the policy in paragraph 196 of the Framework which sets out the circumstances in which harm should be weighed against any public benefits does not apply to advertisement proposals. The fact that the sign could be removed from the site when it is no longer required does not overcome the harm to the visual amenity of the area that remains whilst the sign is in place.
11. Taking the above matters in to consideration, the sign subject of Condition 4 does not preserve or enhance the character and appearance of the CA and is harmful to the setting of the Grade II* Listed Building. Consequently, in that regard, Condition 4 is reasonable and necessary in order to protect the visual amenity of the area. The condition accords with the general principles of saved policies E18 (Conservation Area), E19 (Listed Buildings and Buildings of Local Importance) and E26 (Advertisements) of the City of Derby Local Plan Review (2006) and Policy CP20 (Historic Environment) of the Derby City Local Plan - Part 1 (Core Strategy) (2017). These policies are material insofar as they seek to protect the amenity of the historic environment. The condition also accords with the provisions of paragraph 132 of the Framework.
12. The reason for Condition 4 refers to the Derby City Council Shopfront and Advertisement Guide (Draft – December 2008) (the Guide). The Council has confirmed this is not a formally adopted document. The appellant questions its relevance given it does not consider signs of the specific nature proposed. Insofar as the Guide sets out general principles in respect of the design of signs and advertisements, it is a material consideration in assessing how the sign responds to the visual amenity of the area. The Guide however has not on its own been determinative for the purposes of my decision.

Other Matter

13. The appellant notes that the policies of the development plan referenced in the Council's decision are principally concerned with development. Powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

Conclusion

14. For the reasons given above, I conclude that the appeal should be dismissed.

M Russell

INSPECTOR