



Appeal Decisions

Site visit made on 22 May 2023

by Zoe Raygen DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 June 2023

Appeal A Ref: APP/C1055/W/22/3304500

Pavement outside 5-9 Albion Street, DERBY DE21 2PR

- 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 JCDecaux UK Limited against Derby City Council.
 - The application Ref 22/00837/FUL, dated 24 May 2022 was refused by notice dated 19 July 2022.
 - The development proposed is the installation of a multifunctional communication Hub including defibrillator and advertisement display.
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Appeal B Ref: APP/C1055/H/22/3304501

Pavement outside 5-9 Albion Street, DERBY DE21 2PR

- 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 JCDecaux UK Limited against the decision of Derby City Council.
 - The application Ref 22/00838/ADV, dated 24 May 2022, was refused by notice dated 20 July 2022.
 - The advertisement proposed is installation of digital display screen to rear of Communication Hub unit to show static illuminated content
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Decision

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

Preliminary Matters

3. I have used the description of the advertisement for Appeal B from the appellant's appeal form and Council's decision notice as this more accurately describes it than that on the application form.
4. The Council and the appellant refer to various addresses for the appeal site on a number of relevant forms. The address above reflects that on the appellant's application form. I saw at my site visit that TK Maxx occupies nos 5-9 and the unit is proposed outside No 9. I have therefore retained the original address.
5. As set out above, there are two appeals on the site. I have considered each proposal on its own individual merits. However, the electronic communication hub and advertisement are inextricably linked in each case. Therefore, to avoid duplication I have dealt with the two appeals together having regard to the independent requirements of both the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) for the proposals on each site.

6. In respect of Appeal B, Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the National Planning Policy Framework (the Framework) both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Regard does not need to be had to the development plan. Nonetheless, whilst the policies referred to by the Council have not by themselves been decisive for Appeal B, I have taken them into account as a material consideration. The Council raise no concerns regarding public safety and based on the evidence before me and my observations on site I see no reason to disagree.

Main Issues

7. The main issue for Appeal A is whether the proposal would preserve the settings of the Market Hall (Grade II listed), the Co-Operative Society Building (non-designated heritage asset) and the City Centre Conservation Area.
8. The main issue for Appeal B is the effect of Appeal B on the visual amenity of the area.

Reasons

Significance

9. The Market Hall is a large Grade II listed building dated 1864 constructed from red brick with stone dressings. There are two Co-operative Society buildings on East Street which are contained on the Council's Local List of buildings. For the purposes of these appeals, I have treated them as non-designated heritage assets. One, the copper dome, was the Derby Co-operative Provident Retail Society retail and office building designed by Alexander Macpherson built between 1912-1917. The second is a four-storey building built as a modern movement department store. The significance of these buildings, for the purposes of this appeal, is largely derived from their surviving architecture and contribution to the understanding of local history and the evolution of the City. The non-designated heritage assets sit at the back edge of the pavement and the wide street allows an open appreciation of their significance. The size and height of the Market Hall means that it is visible across the city over a considerable distance forming a landmark building contributing to its significance.
10. The City Centre Conservation Area (CCCA) covers the historic core of Derby from its foundation in the tenth century. It contains many important historic buildings some of which are listed and defined by its historic street pattern with a mix of narrow thoroughfares and planned urban spaces and squares. Its significance for the purposes of this appeal is derived from the relationship of historic buildings and open spaces together with the early street pattern displaying the origins of Derby.
11. The appeal site forms part of a comparatively narrow street in the city centre. It does though have intervisibility towards the Market Hall within the CCCA which forms a focal point in views towards the north-west. Views to the northwest also encompass the former Co-operative department store, but due the position of buildings the Copper dome Co-operative building has little visibility.

Impact on significance

12. The proposed Hub unit would stand at 2.63m tall and 1.34m wide in a simple, rectangular shape, finished in 'metal chain grey.' One side of the unit would contain an advertisement screen measuring 1895mm by 1065mm displaying a sequence of static images. It would also contain various communication and monitoring functions via a large touchscreen display as well as a defibrillator.
13. The area where the hub would be located is a pedestrianised part of the city which currently is devoid of street furniture except for lampposts set close to the buildings and bins and seats at a low level. As a result, the open paved area allows good views towards the heritage assets.
14. The proposed structure would be placed fairly centrally within Albion Street. Although in a predominantly modern commercial area it would nevertheless due to its size and location away from the built form, be a large dominant freestanding structure, which would be particularly obtrusive in the open vistas dominating the streetscene and interfering and competing with views of the Market Hall in the CCCA and the former Co-operative department store building eroding the visual appreciation of the buildings in the street scene harming their significance. Its location in the centre of the thoroughfare would particularly emphasise its dominance in the townscape.
15. The advertisement would be on the south-east side of the structure and would be a six sheet, often seen in city centres as part of a bus shelter or freestanding roadside unit. Furthermore, the view of the advertisement would be against the backdrop of a large first floor advertisement above the entrance to the shopping centre. I appreciate that this is a commercial area and that advertisements are common, but these are mainly at fascia level and above contained within a shop front. This would be a large display at a lower level in the middle of a thoroughfare drawing attention to the physical structure and causing undue prominence in the streetscene to the detriment of visual amenity.

Other Matters

16. The appellant has drawn my attention to a number of applications for advertisement consent that have been granted consent in the City¹. While of a similar size and scale, these are for double sided digital display screens different to that before me now. Furthermore, at least one is a replacement sign. Moreover, I have little detail as to whether the signs that have been granted have similar relationships to heritage assets as the current proposal.

Heritage balance

17. The Framework advises at paragraph 199 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 200 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. I find the harm to be less than substantial in this instance, but nevertheless of considerable importance and weight.

¹ 22/00633/ADV, 22/00636/ADV, 22/00635/ADV, 22//00632/ADV, 22/00634/ADV

18. Paragraph 202 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use.
19. Paragraph 114 of the Framework supports the expansion of electronic communications networks which it states is essential for economic growth and social well-being. The provision of the communications hub would contribute to the expansion of communication networks in the City. The provision of a defibrillator would also contribute to wellbeing. Furthermore, providing many services in one Hub makes an efficient use of space. However, on the scale proposed these are modest benefits that would not outweigh the harm I have found to designated or non-designated heritage assets.
20. For the reasons above I conclude that the proposal would not preserve the settings of the Market Hall (Grade II listed), the Co-Operative Society Building (non-designated heritage asset) and the City Centre Conservation Area. Also, for the reasons above the advertisement would be harmful to visual amenity. Consequently, it would be contrary to saved policies GD5, E18 and E19 of the City of Derby Local Plan Review 2006 and policies CP3, CP4 and CP20 of the Derby City Local Plan - Part 1: Core Strategy 2017 and the Framework as far as they are relevant. Together these require that development is of high quality design which makes a positive contribution to character, distinctiveness and identity and preserves or enhances heritage assets.

Conclusion

21. For the reasons above the appeals are dismissed.

Zoe Raygen
INSPECTOR