



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/22/3304497

Pavement outside 33 East Street, DERBY DE1 2AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by JCDecaux UK Limited against Derby City Council.
 - The application Ref 22/00835/FUL, is dated 27 May 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/22/3304499

Pavement outside 33 East Street, DERBY DE1 2AL

- 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 22/00836/ADV, dated 27 May 2022 was refused by notice dated 19 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, and planning permission is refused
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. Appeal A is against the Council's failure to give notice within the prescribed period of a decision for the planning application. The Council has not given any indication of what decision it would have reached if it had been in a position to make a decision other than to request the appeal be dismissed. I have therefore assessed the proposal and its effects on heritage assets in accordance with my statutory duty.
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 it would preserve the settings of the Church of St Peter (Grade II* listed), 45 St Peters Street (Grade II listed), the Co-operative Society and 27 East Street (non-designated heritage assets), the City Centre Conservation Area and the Green Lane Conservation Area.
8. The main issue for appeal B is the effect of the advertisement on the visual amenity of the area.

Reasons

Significance

9. The Church of St Peter is a Grade II* listed building dating from the twelfth century forming an imposing building in the shopping street. Its significance for the purposes of this appeal is derived from its surviving architectural interest and its historic interest of the church in the development of Derby. Due to its size and prominence in the street, it is visible from several vantage points and particularly acts as a focal point for views along East Street from the east.
10. No 45 St Peters Street is a three storey with attic in gables Grade II listed building dated 1912. There are two Co-operative Society buildings on East Street included on the Council's Local List of Buildings which I have treated as non-designated heritage assets for the purposes of this appeal. 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. Finally, a further building on the Council's Local List is 27 East Street is an Art Deco style cinema opened in 1938. 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. All the buildings are set at the back edge of the pavement and the wide street allows an open appreciation of their significance.
11. The boundary of the Green Lane Conservation Area (GLCA) runs down St Peters Street for a short way encompassing the Medieval St Peters Church. This part of the GLCA is busy containing commercial properties fronting onto a main shopping street. However, further west the area is quieter as an historic commercial area is replaced by often tightly packed Victorian housing, altogether of a different scale and character. The significance of the GLCA for the purposes of this appeal relates to the relationship of historic buildings to

the street pattern and the eclectic mix of building form and styles, to which the wide street containing the appeal site positively contributes.

12. 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 many 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.
13. Due to the position of the appeal site, it has little intervisibility with the CCCA and I am satisfied that there would be no harm to the setting of this heritage asset. The appeal site forms part of the wide street with intervisibility towards all the remaining heritage assets described above, thereby contributing to their settings.

Impact on significance

14. 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.
15. The area where the hub would be located is a pedestrianised part of the city on a relatively wide thoroughfare which currently is mainly devoid of street furniture except for lampposts set close to the buildings and bins and a seat being low level structures. As a result, the wide open paved area allows good views towards the east and west and particularly the Church of St Peters, the GLCA and the Copper Dome Co-operative building. This view is not obscured by the overhead car park access route to any great degree. The Co-operative department store, 45 St Peters Street and 27 East Street, although important buildings are contained within the built frontage and would not have a high level of visibility towards the structure.
16. The proposed structure would be placed about 2.3 metres from 33 East Street. Although in a 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 St Peters Church within the GLCA and the Copper Dome co-operative building eroding the visual appreciation of the buildings in the street scene harming their significance. I note that further west on East Street there is a similar structure to that proposed which already interferes with views of the Church and the GLCA. I have been given no information regarding this structure and while it has not been determinative, it reinforces my concerns about the proposed structure and its impact on heritage assets.
17. The advertisement would be on the eastern 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. However, this is a different context. I appreciate that this is a commercial area and that advertisements are common, but these are mainly at fascia level 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

18. The appellant has drawn my attention to several 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

19. 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.
20. 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.
21. 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. 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.
22. For the reasons above I conclude that the proposal would not preserve the settings of the Church of St Peter (Grade II* listed), the copper dome Co-operative Society (non-designated heritage asset) and the Green Lane 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

23. For the reasons above the appeals are dismissed.

Zoe Raygen
INSPECTOR

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