



Appeal Decision

Site visits made on 12th June 2023

by Nigel McGurk BSc(Hons) MCD MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2023

Appeal A Ref: APP/C1055/Z/22/3292268

Cosy Club, Corn Market, Derby, DE1 2DG

- 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 British Telecom plc against the decision of the Derby City Council.
 - The application Ref 21/01255/ADV, dated 3 July 2021, was refused by notice dated 14 December 2021.
 - The advertisement proposed is two digital 75 inch LCD display screens, one on each side of the amended InLink unit.
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Appeal B Ref: APP/C1055/Z/22/3292269

Primark, Corn Market, Derby, DE1 2DG

- 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.
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Decisions:

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. Appeal A and Appeal B relate to two sites that are located a short distance away from each other, along Corn Market.
 4. Both of the appeal sites are located within the Derby City Centre Conservation Area; and are located within the setting of Listed Buildings.
 5. According to statute, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of these areas. National planning policy, as set out in the Framework, states that when
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considering the impact of a proposal on the significance of designated heritage assets, great weight should be given to the asset's conservation and that significance can be harmed or lost through development within their setting.

6. The proposals include the removal of existing phone-boxes. Whilst this could result in the freeing up of space, if the phone-boxes are no longer being frequently utilised they could be removed notwithstanding the applications the subject of these appeals. Thus, whilst I have taken into account the fact that the removal of phone-boxes would help to keep street furniture to a minimum and that this is a positive factor, it does not, in any of the cases before me, amount to such a benefit that it outweighs the identified harm arising.
7. Each appeal relates to a proposal for an advertisement comprising two digital display screens, one on each side of an InLink unit. The proposal relating to Appeal A is intended to replace an existing BT phone-box and the proposal relating to Appeal B is intended to replace four existing BT phone-boxes.
8. The appellant notes that each of the applications for the proposals the subject of these appeals were accompanied by applications for full planning permission¹ for street hubs. In respect of each of the proposals, the appellant states that "a separate appeal will be made to the accompanying application refused...for full planning for the host unit." As of the date of these decisions, relating to Appeal A and Appeal B, no such appeals have been validated.

Main Issues

9. The main issue for Appeal A is the effect of the advertisement on visual amenity, with particular regard to the Derby City Centre Conservation Area and the setting of Listed Buildings.
10. The main issue for Appeal B is the effect of the advertisement on visual amenity, with particular regard to the Derby City Centre Conservation Area and the setting of Listed Buildings.

Reasons

Appeal A

11. The appeal site is located within a pedestrian zone along Corn Market, close to its junction with Victoria Street and Albert Street, in Derby city centre. The site is located close to the ground floor of a Grade II Listed Building (see below) within an area where street furniture includes telecoms paraphernalia and a waste-bin.
12. Corn Market in this location is a pedestrian street with tall three and four storey buildings to either side. Ground floors tend to comprise shops or cafes, with commercial uses above. The pedestrian area is long and wide, such that whilst it contains a range of street furniture, including waste-bins, bollards, benches, streetlights, telecoms equipment and phone-boxes, it appears spacious and contributes a sense of openness to what is a busy and prominent town centre location.
13. The National Planning Policy Framework (the Framework) emphasises the importance of safeguarding the nation's heritage assets. The site is located

¹ 21/01242/FUL and 21/01248/FUL.

- within Derby City Centre Conservation Area, characterised by its historic street pattern and prevalence of impressive period buildings, including civic and commercial buildings of historic and architectural interest, many set within spacious surroundings, providing for clear views of historic features.
14. The appeal site is situated directly in front of an 1839 Grade II Listed Building, the former Royal Hotel, which effectively turns the corner of Victoria Street and Corn Market. The height, scale and stone construction, classical-style features and large sash windows of the building make a significant contribution to the historic grandeur of this part of Corn Market.
 15. The appeal site also falls within the setting of Number 19 Corn Market, a very attractive early 19th Century Grade II Listed Building notable for its red brick construction, sash windows and moulded stone eaves cornice; and within the setting of the architecturally impressive Numbers 1 and 2 Albert Street, a mid-19th Century three-storey red brick Grade II Listed Building with stone dressings, sash windows in moulded stone architraves with segmental pediments, moulded head and sill bands and quoins to all angles.
 16. During my site visit, I observed that the existing street furniture/telecoms equipment at and around the appeal site together comprise modest features that do not particularly draw attention to themselves but rather, appear in a low-key manner.
 17. I also noted the absence of any large, digital free-standing advertisements and that, in general, the shop signs to the ground floor units of the Listed Buildings close to the appeal site tend to appear in keeping with their surroundings and not to draw undue attention to themselves.
 18. In this way, despite the commercial nature of this busy city centre location, the distinctive, it tends to be the historic attributes of the Conservation Area that dominate the appearance of the area.
 19. Two tall digital advertisement screens, backing on to one another, are proposed.
 20. The proposed advertisement would introduce tall, prominent digital display screens into historic surroundings where no such advertisements exist. The digital display screens would appear unduly large and dominant compared to the more modest, low-key street furniture present in the area.
 21. Resultantly, I find that the two tall screens proposed would appear as incongruous and visually intrusive features. Further, I am mindful that the large digital displays on the screens would draw undue attention to themselves during the daytime and during hours of darkness, to the detriment of the setting of Listed Buildings and to the Derby City Centre Conservation Area as a whole.
 22. Taking all of the above into account, the proposed advertisement would appear out of keeping with and would not conserve the Derby City Centre Conservation Area and the setting of Listed Buildings.
 23. Consequently, I find that the proposed advertisement would be detrimental to visual amenity. It would be contrary to the Framework; to City of Derby Local Plan Review (2006) Saved Policies E18 and E19; and to Derby City Local Plan -

Part 1 Core Strategy (2017) Policy CP20, which together amongst other things, seek to protect local character.

Appeal B

24. The appeal site is located within a pedestrian zone along Corn Market, outside a modern three storey retail unit and on the opposite side of Corn Market to Number 19 Corn Market, a very attractive early 19th Century Grade II Listed Building notable for its red brick construction, sash windows and moulded stone eaves cornice.
25. Corn Market in this location is a pedestrian street with tall three and four storey buildings to either side. Ground floors tend to comprise shops or cafes, with commercial uses above. The pedestrian area is long and wide, such that whilst it contains a range of street furniture, including waste-bins, bollards, benches, streetlights, telecoms equipment and phone-boxes, it appears spacious and contributes a sense of openness to what is a busy and prominent town centre location.
26. The National Planning Policy Framework (the Framework) emphasises the importance of safeguarding the nation's heritage assets. The appeal site is located within Derby City Centre Conservation Area, which is characterised by its historic street pattern and prevalence of impressive period buildings, including civic and commercial buildings of historic and architectural interest, many set within spacious surroundings, providing for clear views of historic features.
27. As noted, the appeal site is situated directly opposite No 19 Corn Market. It is also within the setting of the former Royal Hotel, an 1839 Grade II Listed Building, which effectively turns the corner of Victoria Street and Corn Market, which is notable for its height, scale and stone construction, classical-style features and large sash windows; and the setting of Numbers 1 and 2 Albert Street, a mid-19th Century three-storey red brick Grade II Listed Building with stone dressings, sash windows in moulded stone architraves with segmental pediments, moulded head and sill bands and quoins to all angles.
28. Each of these Grade II Listed Buildings appear prominently as one travels from north to south along Corn Market towards, around and past the appeal site in the direction of Victoria and Albert Street. They appear within spacious surroundings and make a significant contribution to the historic grandeur of this part of Derby City Centre Conservation Area.
29. Further to the above, during my site visit, I observed that, as one travels from south to north, from close to the junction of Albert Street, Victoria Street, St Peters Street and Corn Market, the ornately carved stone tower of the Grade I Listed Derby Cathedral appears as a hugely impressive historic landmark between buildings – and above the appeal site - along Corn Market.
30. I note above that the existing range of street furniture in and around the appeal site appears unobtrusive. Further, it does not detract at all from views to the Grade I Listed Derby Cathedral and does not draw undue attention to itself within the setting of the Listed Buildings noted above, nor within the Derby City Centre Conservation Area as a whole.

31. Further to the above, I also noted an absence of large, digital, free-standing advertisements in the surrounding area and that, notwithstanding the commercial nature of this busy city centre location, it is the notable and distinctive heritage assets identified above that tend to dominate local character.
32. The proposed advertisement would comprise two tall digital advertisement screens, backing on to one another. The proposal refers to the replacement of four glass and steel phone-boxes, originally placed in such a way that two adjoining phone-boxes back on to two adjoining phone-boxes.
33. I find that the proposal would introduce a tall, prominent advertisement with two very large digital display screens into historic surroundings where no such advertisement exists. The proposal would appear considerably taller and more prominent than the more modest, low-key street furniture present in the area.
34. Two large and tall digital screens in this location would draw undue attention to themselves as incongruous and visually intrusive features. They would appear dominant in near and distant views, whereby the eye would be drawn to large digital screens during the daytime and during hours of darkness. This would be to the severe detriment of the currently, impressive outlook along Corn Market towards the Grade I Listed Derby Cathedral and it would detract from the setting of nearby Listed Buildings.
35. Further and taking all of the above into account, the proposed advertisement would appear out of keeping with and would not conserve the Derby City Centre Conservation Area and the setting of Listed Buildings.
36. I find that the proposed advertisement would be detrimental to visual amenity. It would be contrary to the Framework; to City of Derby Local Plan Review (2006) Saved Policies E18 and E19; and to Derby City Local Plan - Part 1 Core Strategy (2017) Policy CP20, which together amongst other things, seek to protect local character.

Other Matters

37. The appellant, in support of its cases for both Appeal A and Appeal B, states that the proposed advertisements would support social inclusion and economic support by providing free Wi-Fi connectivity and other services. However, I consider that the proposals would be detrimental to visual amenity and that this is not something that is changed or outweighed by the supporting factors outlined and hence my conclusions below.

Conclusions

38. For the reasons given above, Appeal A does not succeed and Appeal B does not succeed.

N McGurk

INSPECTOR