
Appeal Decisions

Site visit made on 13 September 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal A: Appeal Ref: APP/Q3060/W/22/3304284

Pavement Outside Fitpod 25, 120, Upper Parliament Street, Nottingham NG1 6LF

- 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 Mr Martin Stephens (J C Decaux UK Limited) against the decision of Nottingham City Council.
 - The application Ref 22/00863/PFUL3, dated 26 April 2022, was refused by notice dated 7 July 2022.
 - The development proposed is the installation of a multifunctional communication hub including defibrillator and advertisement display.
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Appeal B: Appeal Ref: APP/Q3060/Z/22/3304288

Pavement Outside Fitpod 25, 120, Upper Parliament Street, Nottingham NG1 6LF

- 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 Martin Stephens (J C Decaux UK Limited) against the decision of Nottingham City Council.
 - The application Ref 22/00864/ADV2, dated 26 April 2022, was refused by notice dated 7 July 2022.
 - The development proposed is an advertisement integrated into the Communication Hub unit and comprises a LCD portrait screen that will be used to show static illuminated content.
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Decisions

1. Appeal A is allowed and planning permission is granted for the installation of a multifunctional communication hub including defibrillator and advertisement display on the pavement outside Fitpod 25, 120, Upper Parliament Street, Nottingham NG1 6LF in accordance with the terms of application Ref 22/00863/PFUL3, dated 26 April 2022, subject to the conditions set out in a Schedule attached to this Decision.
2. Appeal B is allowed and express consent is granted for an advertisement integrated into the Communication Hub unit and comprises a LCD portrait screen that will be used to show static illuminated content. The consent is for five years from the date of this decision and is subject to the 5 standard conditions set out in the Regulations and the additional condition set out in the Schedule attached to this Decision.

Procedural Matters

3. The appeals relate to the same site and the same proposed development, namely a multifunctional communications hub which, amongst other things, would have an illuminated digital advertisement display. To avoid unnecessary repetition, the 2 appeals have been dealt with in a single Decision letter but the appeals themselves have been considered based upon their own merits.
4. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) require that applications for the display of advertisements are considered in terms of amenity and public safety. Although the reasons for refusal for Appeal B refer to policies contained in the Nottingham City Aligned Core Strategy: Local Plan Part 1 (CS) and the Nottingham Land and Planning Policies Development Plan Document: Local Plan Part 2 (DPD), they are material considerations rather than being decisive in the determination of this appeal.
5. In respect of Appeal A, as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 there is a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. In advertisement appeals this is only relevant in so far as it relates to amenity. Where relevant, the statutory duties for designated heritage assets are echoed in CS Policy 10 and DPD Policy HE1.
6. Although the appellant has indicated a willingness to remove other advertisements from sites elsewhere within the Nottingham city centre, these appeals have been assessed on their own circumstances.
7. For clarity, the description for Appeal B has been adopted from the Council's Decision Notice which specifically refers to the proposed advertisement.

Main Issues

8. It is considered that the main issues for Appeal A are the effect of the proposed development on (a) the character and appearance of the streetscene and (b) the safety of other highway users. For Appeal B, the main issues are the effect of the proposed advertisement on (a) the visual amenity and (b) public safety.

Reasons

Character and Appearance

9. The appeal site is part of an area of wide footway located adjacent to a traffic roundabout which is situated within a predominantly commercial area. The proposed communication hub would be sited within the wide footway along the north side of Upper Parliament Street.
10. Along this side of the road there is street furniture of varying types sited adjacent to the kerb, including trees, lamp-posts, signs and traffic lights associated with a pedestrian crossing. The appeal site is sited in broad alignment with these items of street furniture rather than being viewed as an isolated structure within the streetscene. The proposed development would not add unacceptably to the existing street furniture so as to cause a visual or physical impression of street clutter along this part of the street and the roundabout.

11. By reason of its design and scale it would appear an imposing addition to the streetscene with added visual prominence due to the proposed advertisement panel. This proposed advertisement would introduce a sizeable element of illumination. However, the area around the roundabout is well-lit and the visual prominence of the illuminated advertisement display would not be excessive to reach a point whereby it would be so conspicuous or visually prominent so as to cause unacceptable harm to the character and appearance of the streetscene and public realm in this locality.
12. The site is situated within the extensive Old Market Square Conservation Area which encompasses primarily retail and commercial uses and includes buildings which appear to generally date from the late 19th and early 20th centuries. There are variations in the character and appearance of the Conservation Area and the buildings adjacent to the site are of mid to late 20th century design and appearance. The appeal scheme would be seen against the backdrop of these buildings and within the context of aligning with the existing street furniture along the northside of the road. For these reasons, the proposed development would preserve the character and appearance of this part of the Conservation Area.
13. For the reasons given, it is concluded that for Appeal A the proposed development would not cause unacceptable harm to the character and appearance of the streetscene and, as such, it would not conflict with CS Policies 10 and 11 and DPD Policies DE1, DE2 and HE1. In addition to heritage considerations, these policies also refer to development making a positive contribution to the public realm and sense of place and contributing towards the creation of an attractive, safe and inclusive pedestrian environment and wider public realm. For the same reasons, it is concluded that Appeal B would not harm the visual amenity of the area.

Highway and Public Safety

14. The Planning Practice Guidance advises on the locations of, and types of, advertisements most likely to affect public safety on roads. It includes junctions and pedestrian crossings and those advertisements which are internally illuminated and subject to frequent changes of display, such as the proposed advertisement.
15. From what was observed during the site visit, there is a steady flow of traffic turning left from the roundabout to travel east along Upper Parliament Street. At the exit from the roundabout Upper Parliament Street includes a controlled pedestrian crossing. However, the proposed communication hub would be sited to the east of the crossing and would not obstruct a driver's ability to see pedestrians waiting to cross the road.
16. Although the digital display would allow the changing of advertisements, the appellant has identified that the level of illumination and transition of the images would reflect industry standards and, as such, it is considered that there would be no unacceptable distraction to drivers. A condition could be imposed to require the proposed advertisement display to be operated in accordance with the information submitted by the appellant and assessed by the Council.
17. For the reasons given, for Appeal A it is concluded that the proposed development would not cause an unacceptable danger to the safety of other

highway users and, as such, it would not conflict with DPD Policy DE2 which refers to proposals avoiding obstruction or adversely affecting the highway network. CS Policy 10 does not specifically refer to highway safety matters. For the same reasons, it is concluded that Appeal B would not harm public safety.

Conditions

18. The Council has suggested several conditions in the event these appeals succeed which have been assessed against the tests in the National Planning Policy Framework and the Planning Practice Guidance.
19. For Appeal A, for reasons of clarity it is necessary for the approved scheme to be defined, including the management plan.
20. For Appeal B, the advertisement consent would be subject to the 5 standard conditions, as set out in the Regulations. As already identified and in the interests of safety, a condition is necessary to ensure that the advertisement display is operated in accordance with the submitted details.

Conclusion

21. For the reasons given, it is concluded that Appeal A and Appeal B should be allowed.

D J Barnes

INSPECTOR

Schedule of Conditions

Appeal A:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out and operated in accordance with the following approved plans and documents: Site Plan and Images document received by the Council on 7 October 2022; Hub Unit Details and Unit Management Plan (October 2020).

Appeal B:

1. The advertisement display hereby permitted shall be operated in accordance with the Hub Unit document received by the Council on 7 October 2022.