



Appeal Decisions

Site visit made on 5 September 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th October 2023

Appeal A Ref: APP/Y1110/W/23/3318414

Pavement outside 178-179 Sidwell Street, Exeter EX4 6RD

- 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 Thomas Johnston, JC Decaux UK Ltd against the decision of Exeter City Council.
 - The application Ref 22/1378/FUL, dated 3 October 2022, was refused by notice dated 10 February 2023.
 - The development proposed is the installation of a modern, multifunction Hub unit featuring an integral advertisement display and defibrillator.
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Appeal B Ref: APP/Y1110/H/23/3318415

Pavement outside 178-179 Sidwell Street, Exeter EX4 6RD

- 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 Thomas Johnston, JC Decaux UK Ltd against the decision of Exeter City Council.
 - The application Ref 22/1379/ADV, dated 3 October 2022, was refused by notice dated 10 February 2023.
 - The advertisement proposed is the installation of a modern, multifunction Hub unit featuring an integral advertisement display and defibrillator.
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Decisions

Appeal A Ref: APP/Y1110/W/23/3318414

1. The appeal is dismissed.

Appeal B Ref: APP/Y1110/H/23/3318415

2. The appeal is dismissed.

Procedural Matters

3. 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 repetition 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.
4. In respect of Appeal A, the Decision Notice and Council's Statement of Case references other proposed units, some of which are subject to separate appeals. However, as I have no detailed drawings in relation to these other

proposals, I am unable to take them into account. I have therefore dealt with this appeal accordingly.

5. In respect of Appeal B, Regulation 17 of 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. No objection has been raised on the grounds of public safety and on review of the evidence before me, I agree with this and as a result I do not need to address this further.
6. Also, in respect of Appeal B, 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.
7. The description of development for both appeals in the banner heading above is taken from the application form as neither party has provided written confirmation that a revised description has been agreed. I have however removed wording that does not relate to an act of development.

Main Issues

8. In light of the above, the main issue for Appeal A is the effect of the proposal on the character and appearance of the area including whether it would preserve or enhance the character or appearance of the Central, Southernhay and The Friars and St. Sidwells Conservation Areas, and in relation to Appeal B, the main issue is the effect of the proposal on the visual amenity of the area.

Reasons

Appeal A Character and Appearance

9. The appeal site relates to part of the pavement outside 178-179 Sidwell Street, Exeter. The immediate surrounding area comprises of mainly 3-storey modern commercial units with retail units at ground floor fronting onto a wide pavement and associated road.
10. There are three Conservations Areas (CA's) in the wider area, Central, Southernhay and The Friars and St. Sidwells Conservation Areas. The appeal proposal does not fall within any of the CA's that cover the more historic buildings and core historic areas of the city that are a considerable distance from the appeal site. The significance of the Central CA is derived from its location and association within the City Walls and associated post-war development. The significance of the Southernhay and The Friars CA is derived from its location to the east and south-east of the City Walls comprising buildings of different ages and various functions important for their evidence of how Exeter expanded outside of the City Walls. The significance of the St. Sidwells CA is derived from its history and buildings forming an historic suburb outside of the old East Gate of Exeter of importance to the strategic development of the city.
11. The communications hub would be a free-standing structure that would be located on the pavement. The pavement includes planting boxes, street trees, cycle racks, bollards, signage, bus shelters with integral advertisements and was generally busy with pedestrians at the time of my site visit. The pavement is wide with the communications hub proposed to be located fairly centrally.

12. The proposed communication hub would have a height of 2630mm and a width of 1338mm. It would have a depth of 317mm plus a projecting canopy of 600mm. The front façade of the structure would include a 32" touch screen, a telephone handset; a USB charger; wireless charging shelf; touchpad; emergency button; solar panel to the canopy and a defibrillator. The rear façade would incorporate an advertisement comprising of an 86" LCD screen designed to show commercial and community information in a series of images.
13. The hub would be a substantial structure within the street scene that would stand out as a prominent and eye-catching feature. Although the street is characterised by a varied range of commercial frontages and fascia signs, the hub would pay little regard to them by reason of its siting centrally within the pavement intruding prominently into the pedestrian thoroughfare detached from, and orientated at right angles to, any building frontage.
14. The communication hub would also pay little regard to the scale and position of other street furniture and appear large and overbearing in comparison at street level. Moreover, the hub would be viewed in association with several existing bus shelters, their associated advertisement panels, and the other street furniture adding to the clutter to the street. As a result, it would have a harmful effect on the visual amenity and character and appearance of the immediate area.
15. Although the appeal proposal would harm the character and appearance of the immediate area, it would be on a pavement located a significant distance outside of the three CA's. With the nearest buildings and context to the appeal site comprising a more modern retail area with development, street furniture and associated road activity, any meaningful visual or other relationship between the appeal site and the CA's is removed. As a result, there would be no harm to the significance of the Conservation Areas.
16. With regard to Appeal A, although I have found no harm to the significance of the CA's, I conclude that the proposal would materially harm the character and appearance of the area. As such, the proposed development would conflict with Policy CP17 of the Exeter City Council Core Strategy (February 2012) (CS) and Saved Policies DG1 and DG8 of the Exeter Local Plan First Review 1995-2011 (LP). Amongst other things, these seek a high standard of sustainable design that complements or enhances Exeter's character, that proposals relate well to the character and appearance of the adjoining buildings and surrounding townscape, and do not harm the character and appearance of the area within which they are located.
17. The proposal would also conflict with the Framework where it states at paragraphs 130 and 136 that developments should add to the overall quality of the area and that the quality and character of places can suffer where advertisements are poorly sited and designed.
18. The Council's decision notice references Objectives 8 and 9 of the CS. However, as these Objectives are reflected within the relevant planning policies referenced above, they are not in themselves determinative.

Appeal B Visual Amenity

19. Given my findings above that the proposal would cause harm to the character and appearance of the area by reason of its position, scale and resultant clutter

in association with other street furniture and advertisements, it follows with regard to Appeal B, that I conclude that the proposed advertisement would materially harm the visual amenity of the area. In accordance with the Regulations, I have considered the provisions of the development plan so far as they are relevant to Appeal B. Policy CP17 of the CS and Policies DG1 and DG8 of the LP seek to protect visual amenity and accordingly, are relevant in this case. As I have concluded that the proposal would harm visual amenity, it would conflict with these policies and paragraphs 130 and 136 of the Framework.

Other Matters

20. Chapter 10 of the Framework confirms that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. It also seeks to support the expansion of electronic communications networks. However, these considerations are not without regard to the Framework as a whole.
21. I also acknowledge that the proposed communication hub would include a defibrillator, and other services to support the community, although these are likely to be a secondary function to the advert and I note the presence of existing defibrillators and availability of Wi-Fi nearby. In light of this, and although the unit has been designed to be able to be recycled or recovered, designed to keep crime to a minimum and use electricity from clean renewable sources with sympathetic levels of illumination, the benefits would not outweigh the harm I have identified above.

Conclusion

22. I conclude that the communications hub and advertisement would be harmful to the character and appearance and visual amenity of the area and conflict with the policies referred to above. There are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above, I conclude that both Appeals A and B should be dismissed.

C Rose

INSPECTOR