



Appeal Decisions

Site visit made on 5 September 2023

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2023

Appeal A Ref: APP/Y1110/W/23/3318420

Pavement outside 99 South Street, Exeter EX1 1HP

- 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) against the decision of Exeter City Council.
 - The application Ref 22/1388/FUL, dated 3 October 2022, was refused by notice dated 13 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/23/3318422

Pavement outside 99 South Street, Exeter EX1 1HP

- 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) against the decision of Exeter City Council.
 - The application Ref 22/1389/ADV, dated 3 October 2022, was refused by notice dated 13 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

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. The proposal for Appeal B would be an integral part of the proposal for Appeal A. As such, to avoid repetition I have provided one reasoning section, detailing my findings for both appeals. Notwithstanding this, each proposal and appeal has been considered individually, and on its own merits.
4. The application form states that a payphone kiosk is currently installed on the area of pavement that forms the appeal site. However, this was not the case when I conducted my site visit and there is no further reference to it within the evidence before me. As such, I have not taken this into consideration when making my decision.

Main Issue

5. The main issue with respect to Appeal A is the effect of the proposed development on the character or appearance of the Central Conservation Area and the setting of a nearby listed building.
6. The main issue with respect to Appeal B is the effect of the proposed advertisement on amenity.

Reasons

Conservation Area and Listed Building

7. The appeal site comprises an area of pavement outside 99 South Street, Exeter. It is positioned immediately in front of commercial frontages in a bustling and vibrant commercially-orientated area of the city centre where there is a mix of building styles and sizes.
8. The site is situated within the Central Conservation Area. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The significance of the Conservation Area arises in part from the manner in which it encompasses a range of buildings and spaces that reflect the evolution of this historic centre, with bustling commercial streets that have been established and developed around the historic building of Exeter Cathedral which lies at its heart.
9. The appeal site, and the area immediately surrounding it, contribute positively to the significance of the Conservation Area primarily by its function as part of the historic layout of the city centre. It also provides a relatively uncluttered space which affords views towards the historic and elaborately designed red brick buildings on High Street.
10. Several items of street furniture are present near the site, including lighting columns, bicycle stands and several mature street trees with surrounding benches. Nevertheless, the generous width of the pavement in this location means that it has the appearance of being relatively uncluttered by street furniture, and the advertising, branding, and fascia signs present on nearby buildings in retail and commercial use at ground floor level is predominantly visually restrained and mostly unobtrusive in appearance.
11. The proposed hub would be a tall and wide structure, with a rectangular block-like design. While its appearance would not detract from the appearance of the relatively modern looking buildings on South Street, its height and design means that it would be viewed as an imposing and visually incongruous item of street furniture. Moreover, due to its fairly large scale in comparison with most other items of nearby street furniture, and its proposed prominent positioning on a pedestrian route, it would serve to add visual clutter, thereby detracting from the existing street scene and making it feel less spacious. It would also detract from views towards the attractive buildings on High Street.
12. The proposed 86-inch LCD screen on one side of the hub would be used to display commercial and community messaging and advertisements. While the bus stops nearby do have display screens, standalone LCD displays of a similar size to that proposed are not common in the immediate vicinity. Considering

this, the screen would appear as an overly dominant and visually intrusive feature in this location which would detract from the amenity of the area. Although the brightness of the screen could be controlled by condition, the overall visual effect of the proposed hub would be particularly noticeable and harmful in the hours of darkness.

13. It follows that the proposal would cause harm to character and appearance, and by extension, the amenity of the area. It would therefore not preserve or enhance the significance of the Conservation Area.
14. The appeal site is also located within the setting of the Grade II listed Ruins of the Hall of the College of the Vicars Choral, and the Church of St. George. Mindful of the statutory duty set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving its setting. The significance of the building arises from its age as a 14th Century building and its associated historical value. I have already identified that the proposed development would result in harm to the character and appearance of the wider area and amenity. For the same reasons, this harm would extend to the setting of the listed building and the contribution it makes to its significance.
15. As the harm caused by the hub would be localised, the proposal would cause less than substantial harm to the significance of the Conservation Area and the setting of the listed building. Nevertheless, this harm is of considerable importance and weight and the National Planning Policy Framework (the Framework) advises that such harm should be weighed against the public benefits of the proposal, which are considered below.

Public benefits and Planning Balance

16. With regards to both Appeal A and Appeal B, the proposed development would provide some public benefits in the form of free ultrafast Wi-Fi, free phone calls to landlines, wayfinding, device charging, rapid connection to emergency services and public messaging capabilities. However, the limited scale of the proposal, and the fact that the public can already achieve these things in other ways, means that the benefits are very limited. The proposed hub would also incorporate a defibrillator. While these facilities are vital for public health, there are several existing defibrillators in the city centre area and so the provision of another only attracts limited weight. In combination, the benefits do not outweigh the harm that I have identified in relation to both appeals. I acknowledge that Section 10 of the Framework supports the provision of electronic communications infrastructure. However, when read as a whole, the Framework seeks to ensure that new development preserves character and appearance and protects designated heritage assets. I have set out why that would not be the case in this instance.
17. Therefore, I conclude that in respect of Appeal A, the proposal would harm the character and appearance of the Conservation Area and the setting of the listed building. In relation to Appeal B, the reasoning above applies equally with regards to the effect of the proposed advertisements on amenity. Thus, while the proposal would not cause harm in relation to public safety, it would have an unacceptable and harmful effect on amenity. As a result, both Appeal A and Appeal B are in conflict with Objectives 8 and 9 and Policy CP17 of the Exeter City Council Core Strategy, February 2012 and saved policies DG1, DG8 and C1 of the Exeter Local Plan First Review, 1995 – 2011. Taken together, the

relevant aspects of these policies seek to ensure that new development, including advertisements, is well designed, does not harm character and appearance and protects heritage assets. Both appeals also conflict with the relevant aspects of the Framework which have similar aims.

Conclusion

18. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. As a result, Appeal A is dismissed and Appeal B is also dismissed.

C Butcher

INSPECTOR