



Appeal Decision

Site visit made on 18 December 2023 by T Bennett BA(Hons) MSc MRTPI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/C1055/Z/23/3328417

135 Green Lane, Derby DE1 1RZ

- 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 Vivid Outdoor Media Solutions (A) Ltd against the decision of Derby City Council.
 - The application Ref 23/00525/ADV, dated 12 April 2023, was refused by notice dated 26 July 2023.
 - The advertisement proposed is installation of 1 x 48 sheet LED illuminated advertisement panel, measuring 3.2m high x 6.2m wide and comprising sealed LED screen.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The appeal site is located within a Conservation Area. I am therefore mindful of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which sets out that special attention should be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
4. Both the Council and Appellant, in their written submissions, have referred to the Conservation Area as Green Lane and St Peters Conservation Area. However, the map supplied by the Council identifies it only as Green Lane Conservation Area. For consistency, I have adopted the name used in the written submissions: Green Lane and St Peters Conservation Area.
5. The Council has cited conflict with Saved Policies E18, E19 and E26 of the City of Derby Local Plan Review (2006) (LP) and Policy CP20 and CP4 of the City of Derby Local Plan Part 1 Core Strategy (2017) (CS). Whilst I have taken these policies into account as a material consideration, the powers to control advertisements under the Regulations may be exercised only in the interests of amenity and public safety. Consequently, in my consideration of this appeal the Council's policies are not, in themselves, decisive.
6. I understand that there has been a previous advertisement appeal¹ on the appeal site which was dismissed with harm identified to visual amenity. The

¹ APP/C1055/Z/19/3220760

appellant has asserted that since the previous appeal, further advertisements have been consented which are now material considerations. I have not been provided with a copy of this appeal decision.

Main Issue

7. The Council has raised no concerns regarding public safety in this case and from the evidence before me I see no reason to disagree. Therefore, the main issue is the effect of the proposed advertisement on the visual amenity of the area with particular regard as to whether the proposed advertisement would preserve or enhance the character or appearance of the Green Lane and St Peters Conservation Area (CA).

Reasons for the Recommendation

8. Amenity is not defined exhaustively within the Regulations, but relevant factors include the characteristics of the locality including any features of historic, architectural or cultural interest. The Planning Practice Guidance (PPG) advises that in assessing amenity, the local planning authority should consider whether the advertisement is in scale and in keeping with locally important scenic, historic, architectural or cultural features.
9. The appeal site is the prominent flank elevation of a red brick Victorian terraced property which sits on the southern boundary of the CA, facing towards a busy roundabout junction. Immediately north are other buildings in the CA which are visible along the street. The CA's significance is partly derived from the high quality mid to late 19th century terraced properties and commercial buildings along with several listed buildings.
10. The area outside of the CA nearby to the appeal site is varied in character, comprising a mix of residential and commercial properties. To the east of the site a car park, commercial units and a large student accommodation block are prominent in views. Immediately south is the busy roundabout, part of the inner city ring road, resulting in a more open character, with the road infrastructure a dominant feature.
11. Despite the site being located close to commercial properties and a major arterial route, advertisements are not a dominant feature in the surrounding street scene. Where they are present, they are typically low level and non-illuminated.
12. The flank elevation of the appeal property is at a juncture between the open character surrounding the roundabout and the traditional properties and listed buildings visible within the CA, seen directly behind the appeal site to the north. Therefore, the flank wall of the appeal site is a significant feature when viewing the CA.
13. The proposed advertisement would cover a large part of the flank elevation and would be positioned approximately 4.5 metres above ground level and would be highly visible in views towards the CA. Given the absence of any advertisements like the one proposed in the vicinity, the siting, scale and elevated position of the proposed advertisement, combined with its internal illumination and sequential images would appear as an unduly prominent and discordant feature. It would have a harmful impact on views into the CA, detracting from the domestic scale of the historic buildings within the CA. From

the roundabout and its environs, the proposal would result in harm to the CA's character and appearance.

14. Saved Policy E26 of the LP relates to advertisements. It states that consent will be granted provided it does not detract from the appearance, character or setting of any building upon which it would be displayed, particularly where the building is listed or where it lies within a CA. It goes on to say that large poster display boards will only be permitted where it would obscure an unsightly wall. Whilst I agree with the appellant that this element of the policy is restrictive, the overall thrust of the policy seeks to ensure advertisements improve amenity which is consistent with the Regulations.
15. For the above reasons, I conclude that the proposed advertisement would result in an unacceptable impact on visual amenity and would not preserve or enhance the character or appearance of the CA. Insofar as it is material, the advertisement would conflict with Policies E18, E19 and E26 of the LP and Policy CP4 and CP20 of the CS. Together, these seek to ensure that proposals enhance or preserve heritage assets and that advertisements should not detract from the appearance or setting of a building upon which it would be displayed. It is noteworthy that the National Planning Policy Framework states that the quality and character of places can suffer when advertisements are poorly sited, which would be the case with this proposal.

Other Matters

16. The appellant has drawn my attention to other digital advertisements within Derby that have been approved since the previous appeal decision. Regarding the examples at Osmaston Road and Sidalls Road, whilst these are close to busy road networks, similar to this appeal, no reference is made to conservation areas or listed buildings. Therefore, I cannot be certain that the circumstances are the same. Furthermore, at Sidalls Road, a similar advertisement had been previously approved that was in the line of sight of the proposed advertisement. In this appeal, no similar advertisements are present. For the examples provided at Traffic Street, Derwent Street, Osmaston Park Road and the Pentagon, limited information has again been provided and therefore I cannot be sure of the site circumstances which led to their approval.
17. I have carefully considered the other examples the appellant has referenced of digital advertisements approved across England and Wales. In Wakefield, it is stated that the proposal would not affect inward views to the Conservation Area. I have found in this case that inward views of the CA would be affected, therefore the circumstances are not the same. I have limited information for the examples in Rhyl, Stockport, Liverpool and Hull. However, in each case, the advertisements appear to be on buildings in commercial use and are all replacement advertisements. In any event, notwithstanding the above, each proposal is considered on its own merits.
18. I have had regard to the environmental and economic benefits of the appeal proposal which includes reduced energy consumption and the opportunity for local businesses to advertise. However, as the power to control advertisements under the Regulations can only be exercised in the interests of amenity and public safety these matters do not form part of my consideration.
19. I acknowledge the appellant's submission that the image changes will be limited to once every 10 seconds and that the level of illuminance would be

controlled by an automatic ambient light sensor and restricted in line with the Institution of Lighting Professionals Professional Lighting Guide (2022). Nonetheless, I consider the imposition of such conditions to mitigate the impact of the proposal on visual amenity would not address the harm that I have identified.

Conclusion and Recommendation

20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

T Bennett

APPEAL PLANNING OFFICER

Inspector's Decision

21. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

RC Kirby

INSPECTOR