



Appeal Decisions

Site visit made on 24 September 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th October 2024

Appeal A

Appeal Ref: APP/C1055/Z/24/3346187

Pavement outside 9 Albion Street, Derby DE1 2PR

- 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 In Focus Network Ltd against the decision of Derby City Council.
 - The application Ref 24/00353/ADV, dated 6 March 2024, was refused by notice dated 15 May 2024.
 - The advertisement proposed is display of internally illuminated digital display screen.
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Appeal B

Appeal Ref: APP/C1055/Z/24/3346188

Pavement outside 9 Albion Street, Derby DE1 2PR

- 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 In Focus Network Ltd against the decision of Derby City Council.
 - The application Ref 24/00352/FUL, dated 6 March 2024, was refused by notice dated 1 May 2024.
 - The advertisement proposed is installation of free-standing telephone apparatus.
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Decision

1. Appeal A is allowed, and express consent is granted for an internally illuminated digital display screen at pavement outside 9 Albion Street, Derby DE1 2PR in accordance with the terms of the application Ref 24/00353/ADV. The consent is for five years from the date of this decision and is subject to the five standard conditions as set out in the Regulations and the following additional conditions:
 - 1) The display panel should be fitted with a light sensor designed to adjust the brightness to changes in ambient light levels.
 - 2) The means of illumination shall not be of an intermittent, pulsating or flashing kind and maximum level of illumination shall not exceed 600 cd/m2.
 - 3) The advertisement hereby approved shall ensure that each advert is displayed for at least 10 seconds before rotation.
2. Appeal B is allowed, and planning permission is granted for the installation of free-standing telephone apparatus at pavement outside 9 Albion Street, Derby, DE1 2PR in accordance with the terms of the application Ref 24/00352/FUL and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the drawings as submitted.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the application form.

Procedural Matters

3. For Appeal A, under the above Regulations powers to control advertisements are to be exercised in the interests of amenity and public safety taking into account the provisions of the development plan, so far as they are material and any other relevant factors. The National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) reiterate this approach, with the Framework adding that cumulative impacts can be taken into account. As the Council have raised no objections on safety grounds the main issue for Appeal A will be on amenity grounds only.
4. The overall item is a "smart hub" made up of a digital advertisement display to one side (Appeal A), and various communications facilities and a defibrillator on the other (Appeal B).
5. The Council have virtually duplicated the assessments for both applications, referring to the almost identical grounds for refusal as amenity for the advertisement, but character and appearance for the telephony equipment.
6. The appeal statement of the appellant is also virtually identical given that the appeals are for effectively two sides of the same structure. As such, I shall deal with the appeals in a similar manner. I am satisfied neither party would be prejudiced by that approach.

Main Issue

7. (Appeals A & B) The effect of the proposals on the amenity / character and appearance of the locality.

Reasons

Amenity / Character and appearance

8. The appeal site is located outside of a retail unit on Albion Street, which is in a pedestrian zone leading to a large shopping centre. The locality is wholly commercial in nature.
9. The proposal is two-fold; a illuminated advertisement display screen to one side, and a freestanding telephone apparatus with smaller digital screen on the other side. A defibrillator would also be located on this site of the proposal.
10. The proposal would be approximately 2.6m in height and 1.3m in width. The advertisement section would have a maximum luminance of 300 cd/m², under the Council's maximum luminance of 600 cd/m² in this location zone.
11. The proposal is large in size, and prominent within the street scene, as would be expected for a structure that contains an advertisement, where prominence is the key to reaching as many customers as possible.

12. This section of pedestrian area is relatively wide and there are no significant amounts of street furniture in the locality. Whilst the appeal proposal is large, it would not appear overly incongruous when viewed against the commercial nature of the locality, with advertisements and lighting are prominent. The pedestrian zone can accommodate a structure of that nature without causing a significant problem for pedestrians.
13. In relation to Appeal A, the proposed advertisement would not harm amenity. It would not conflict with paragraph 141 of the National Planning Policy Framework or the Town and Country (Control of Advertisements) (England) Regulations 2007 (as amended) which states that advertisements should be subject to control in the interests of amenity and public safety. Whilst not determinative, I have also taken into consideration policies GD5 and E26 of the adopted City of Derby Local Plan Review (the LP) and policies CP3 and CP4 of the Derby City Local Plan Core Strategy (the CS).
14. In relation to Appeal B, the proposed free-standing telephony equipment would not harm the character and appearance of the locality and would not conflict with policies GD5 and E6 of the LP and policies CP3 and CP4 of the CS, which, amongst other matters, expect development to be of an acceptable form, scale, height and massing.

Conditions

15. The Council supplied one set of proposed conditions to cover the applications, which related to the advertisement aspect of the proposals. I have reviewed those suggestions with respect to Appeal A and have not included some of them as they relate to highways issues, as the proposal is located in a pedestrian area away from vehicular highways. The conditions for Appeal B are standard conditions in the interests of proper planning.

Conclusion

16. For the reasons given above, I conclude that both Appeal A and Appeal B should be allowed.

Paul Cooper

INSPECTOR