



Appeal Decision

Site visit made on 1 October 2024

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2024

Appeal A Ref: APP/P3610/W/24/3345301

Outside 73, High Street, Epsom, KT19 8DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Nathan Still, In Focus Network Limited against the decision of Epsom & Ewell Borough Council.
 - The application Ref is 24/00208/FUL.
 - The development proposed is the installation of a freestanding telephone apparatus with affixed defibrillator and advert display.
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Appeal B Ref: APP/P3610/Z/24/3345303

Outside 73, High Street, Epsom, KT19 8DN

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr Nathan Still, In Focus Network Limited against the decision of Epsom & Ewell Borough Council
 - The application Ref is 24/00209/ADV.
 - The advertisement proposed is single illuminated six sheet advertisement display with automatic change of static locations.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. The two appeals relate to the same appeal site and to each other. Appeal A relates to the refusal of planning permission for the proposed communication hub. Appeal B is in respect of refusal of advertisement consent for the advertisement display which would be an integral part of the proposed hub. I have considered each appeal on its individual merits, but as they raise similar issues, I have combined these cases in a single decision letter.
4. In respect of Appeal B, Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) and the National Planning Policy Framework (the Framework) state that advertisements should be subject to control only in the interests of amenity and public safety. With respect to appeal B, the development plan policies referred to by the Council are not determinative, but I have taken these into account as a material consideration.

5. I have used the Council's description of the proposal in respect of Appeal B as it more precisely describes the proposed advertisement.

Main Issues

6. The main issues in respect of Appeal A are the effect of the proposed communication hub on the character and appearance of the area, including on the Epsom Town Centre Conservation Area, and on highway safety.
7. The main issues in respect of Appeal B are the effect of the proposed advertisement on the visual amenity of the area and on public safety.

Reasons

Background

8. The proposed hub would be freestanding, with an integral advert display on one side and a range of publicly accessible communication functions on the other, underneath a protective canopy. The hub would have an overall height of 2630mm, a width of 1338mm and a depth of 315mm with the protective canopy extending out a further 600mm (max). The proposed advert would have an area of 1065mm by 1895mm and would comprise an illuminated six sheet display with automatic changing images at ten second intervals.
9. I have had regard to the full range of services that would be provided, including free calls to landline, free Wi-Fi, interactive wayfinding, direct access to local webpages, a 24/7 publicly accessible defibrillator and device changing.

Character and appearance / visual amenity

10. The appeal site is located on the pavement on the southern side of the High Street, close to its junction with Waterloo Road. It is within the Epsom Town Centre Conservation Area (CA) which is largely commercial in character and includes the historic core of Epsom and most of its oldest buildings. The CA is centred around the High Street, which is a dual carriageway with wide, busy pavements on either side. Buildings on both sides of the High Street retain the character and appearance of a Surrey market town, despite some more modern additions. It is the historic layout of the High Street and the wealth of architectural styles, materials and details, which give character, interest and identity to the CA.
11. 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 CA.
12. The proposed hub would be located approximately 650mm from the kerbline, with a distance of around 3m retained between it and the adjacent retail frontage. It would broadly align with the bus shelter which is about 11.5m to the east and other street furniture such as planters, litter bins, loading restriction signage and an information board. Other than for fascia signage, this part of the High Street is largely free of advertisements other than those which form an integral part of the bus shelter.
13. I acknowledge that the proposed hub would be viewed in conjunction with the more modern shopfronts and signage along the southern side of the High Street. However, despite some modern additions at ground floor level, the

upper facades of nearby buildings have retained much of their original character and appearance.

14. Due to the overall size and the solid appearance of the structure, together with the display of the illuminated adverts, the proposal would stand out as a particularly modern, incongruous feature which would appear visually over dominant within its setting. Owing to its scale in comparison to the limited presence of nearby items of street furniture, it would add to visual clutter and thereby detract from the character and spatial qualities of the existing street scene. Furthermore, it would reduce visual permeability up and down the High Street and consequently, would obscure and significantly detract from views of other attractive historic buildings within the CA, including those around the junction of High Street and Waterloo Road which make a positive contribution to the significance, character and appearance of the CA.
15. I therefore conclude that the proposals under Appeals A and B would harm the visual amenity of the local area and would not preserve the character or appearance of the CA.
16. Paragraph 205 of the Framework advises that when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to their conservation. Given the limited scale of the proposal, the harm would be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the scheme.
17. I acknowledge that the proposal would offer a range of public benefits, including free calls to landlines, free Wi-Fi, interactive wayfinding, direct access to local webpages, a 24/7 publicly accessible defibrillator and device changing. Furthermore, 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. Therefore, overall, the moderate weight that I ascribe to the public benefits that would accrue from the proposal is not sufficient to outweigh the considerable importance and weight I attach to the harm to the CA that I have identified.
18. Consequently, the appeal under Appeal A would conflict with Policies CS1 and CS5 of the Epsom & Ewell Borough Core Strategy 2007 (CS) and Policies DM8, DM9, DM10 and DM15 of the Epsom & Ewell Development Management Policies Document 2015 (DMPD), as well as Sections 12 and 16 of the Framework. Collectively, these policies seek amongst other matters, a high quality of design which respects the local context and visual amenity of the area and the significance of designated heritage assets.
19. With regard to Appeal B, in accordance with the Regulations, I have considered the provisions of the development plan so far as they are relevant to the appeal. Policy CS5 of the CS and Policies DM9, DM10 and DM16 of the DMPD seek to protect visual amenity. I have concluded that the advertisement would harm amenity, and therefore the appeal conflicts with these policies as well as the amenity aims of the Framework.

Highway / public safety

20. Although the proposed hub would be approximately 11.5m from the adjacent bus shelter, it would be broadly in line with the existing bus cage road markings. It would be located approximately 650mm from the kerbline and given this narrow distance and the overall size of the hub of around 2.6m high and 1.3m wide, it would have the potential to cause danger and inconvenience to pedestrians entering and existing buses by restricting access and visibility.
21. The proposed communications hub would also be close to an existing access at 87 High Street, to the west of the site. Use of this existing access necessitates vehicles crossing over the pavement. In the absence of any evidence to the contrary, the proposed hub due to its siting, size and solid nature would be likely to obscure visibility for drivers using the access. This would be likely to pose a risk to road users and to pedestrian safety.
22. This therefore leads me to conclude that the proposals would have a harmful effect on highway (public) safety. In relation to Appeal A, the proposal would conflict with Policy CS16 of the CS and Policy DM36 of the DMPD which among other things, seek to enhance the pedestrian environment and ensure that the public realm is safe.
23. In accordance with the Regulations, I have considered the provisions of the development plan so far as they are relevant to Appeal B. As I have concluded that the proposed advertisement would harm public safety, it would conflict with those policies described above.
24. The Council also refer to Policy DM37 within their refusal reason. However, this policy relates to parking standards and is not therefore relevant to the appeal proposals.

Conclusion

25. I have concluded that the proposals under Appeals A and B would harm visual amenity and would not preserve the character or appearance of the CA. Furthermore, I have identified further harm in relation to public safety. Whilst the proposals would offer public benefits, these would not outweigh the harm that I have identified above.
26. For the reasons given above and having regard to all other matters raised, I conclude that Appeals A and B should be dismissed.

J Davis

INSPECTOR