



Appeal Decisions

Site visit made on 28 October 2024

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th November 2024

Appeal A Ref: APP/C1055/W/24/3346192

Pavement outside 46 and 48 St Peters Street, Derby

- 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 of In Focus Network Limited against the decision of Derby City Council.
 - The application Ref is 24/00356/FUL.
 - The development proposed is a piece of freestanding telephone apparatus with affixed defibrillator.
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Appeal B Ref: APP/C1055/H/24/3346191

Pavement outside 46 and 48 St Peters Street, Derby

- 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 of In Focus Network Limited against the decision of Derby City Council.
 - The application Ref is 24/00357/ADV.
 - The advertisement proposed is described as 'installation of an illuminated advertisement on the rear of a communication Hub.'
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Appeal A: Decision

1. The appeal is dismissed.

Appeal B: Decision

2. The appeal is dismissed.

Preliminary Matters

3. The address on the application form and appeal form for both appeals is inaccurate. This is a matter the Council has addressed on its Decision Notices. From the evidence, including the site edged red location plan, it is clear where the proposed development would be positioned (and advertisement displayed). I have amended the addresses accordingly in the banner heading above.
 4. According to the appeal statement, the appeal proposals are one of four pairs of similar proposals within the centre of Derby. These are conjoined appeals and are generally determined by a single Inspector, in the interests of consistency and efficiency. However, that has not happened in this case. Nevertheless, I am satisfied that whilst the four pairs of proposals are the same, the locations are quite different. I have determined these appeals with regard to the evidence before me and to my observations on site.
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5. As set out above there are two appeals on this site. One concerns a piece of freestanding telephone apparatus, generally referred to as a *communication hub* in the evidence, upon which, amongst other things, an advertisement would be displayed. The other concerns the express consent to display the advertisement. I have considered each proposal on its individual merits and with regard to relevant legislation, policy and guidance. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
6. For Appeal A, as the proposal is in a conservation area, and near to listed buildings, I have had regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). For Appeal B, I have had regard to section 72(1) of the Act insofar as it relates to the consideration of amenity.

Main Issues

7. Appeal A: The main issues are the effect of the proposed development on:
 - Designated heritage assets in the area; and,
 - Public safety.
8. Appeal B: The main issues are the effect of the proposed advertisement on:
 - Visual amenity; and,
 - Public safety.

Reasons

Designated Heritage Assets and Amenity

9. St Peters Street is a gently sloping street within the retail centre of Derby and is pedestrianised in the vicinity of the appeal site. It is located at the northeastern extent of the Green Lane Conservation Area (GLCA), the boundary of which runs along the centre of St Peters Street in the vicinity of the appeal site.
10. The GLCA extends southwards along St Peters Street to include the Grade II* listed Church of St Peter and its churchyard, some 35 metres away on the western side of the street. The church is said to date from the 12th century, with various additions in subsequent centuries, and with restoration and further additions in the 19th and 20th centuries. It is constructed of stone, and can be accessed from St Peters Street, through the walled churchyard.
11. Insofar as it relates to Appeal A, the significance of the Church of St Peter stems from its historic function as a place of worship at this prominent location, and from the form and development of the building and associated structures over many hundreds of years.
12. The GLCA does not include the Grade II listed 45 St Peters Street, a three-storey building at the corner of St Peters Street and East Street, some 25 metres to the south of the appeal site. The building dates from the early 20th century and contains retail uses at ground floor level, with three gables around the apex to the corner at upper floor level. These gables contain ornate bay features at first and second floor level, with small statues set within

alcoves at first floor level by the apex. The upper floors of the building are stuccoed, and contain elaborate decorations, at roof level and by the bays.

13. Insofar as it relates to Appeal A, the significance of 45 St Peters Street stems from its elaborate design and materials and its visual prominence in the streetscene.
14. From the limited information before me, together with my observations on site, the GLCA has an eclectic character and appearance, with the GII* listed Church of St Peter a focal point within this part of the GLCA. Insofar as it relates to these appeals, the significance of this designated heritage asset stems from the historical development of the area and the diverse range of historic buildings to be found here.
15. The proposed communications hub would be rectangular in shape with a small canopy on its northern side. It would be some 2.6 metres in height and 1.3 metres in width, located some 2.4 metres from the front elevations of Nos 46 and 48 St Peters Street. The proposed illuminated advertisement display would be on its southern elevation.
16. At the time of my site visit, a temporary site compound had been erected over part of the footway in front of No 46. I have discounted this temporary structure from my assessment of the appeal proposals.
17. In this vicinity, St Peters Street contains a typical range of High Street uses, from banks, food and drink outlets, and shops, as well as takeaway kiosks. Most of the street furniture, which is of a coherent, contemporary design, is positioned on the eastern side of the street away from the appeal site. There are lampposts on either side of the broad central area, which runs the length of the street and contains no street furniture.
18. In views along this part of St Peters Street, the design, scale and position of the proposed communications hub, means it would be a visually obtrusive addition to the streetscene. In views from the north, it would detract from or block views of the eastern end of the Church of St Peter. This would detract from the character and appearance of the GLCA and cause less than substantial harm to its significance.
19. This part of the GLCA is a shopping street where signs advertising retail premises would be expected, and are to be found here. However, the scale and position of the proposed illuminated advertisement, on the southern face of the proposed communications hub, would be unduly prominent in the streetscene and would detract from the character and appearance of the GLCA and the wider area, thereby harming visual amenity.
20. In the glossary of the National Planning Policy Framework (December 2023) (the Framework) the setting of a Heritage Asset is defined as *the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve.*
21. In this case, the design, scale and position of the proposed communications hub would detract from the setting of both the Church of St Peter and 45 St Peters Street, causing less than substantial harm to their significance.
22. With reference to paragraph 208 of the Framework, less than substantial harm to a heritage asset should be weighed against the public benefits of the

proposal. The proposed communications hub would offer a range of public benefits as detailed in the appellant's hub unit specification document. These include a defibrillator, device charging, ultrafast wi-fi, free telephone calls to landlines and public information messaging capabilities.

23. Paragraph 205 of the Framework requires that great weight be given to the conservation of a heritage asset, and the more important the asset, the greater the weight should be. In this case, I am not satisfied that the less than substantial harm that would be caused to the GLCA and the settings of the GII* listed Church of St Peter and GII listed 45 St Peters Street would be outweighed by the public benefits of the proposed communications hub.
24. For these reasons, the proposed communications hub (Appeal A) would adversely affect designated heritage assets in the area. It would, therefore, conflict with saved policies E18 (conservation areas) and E19 (listed buildings and buildings of local importance) of the Derby Local Plan Review 2006 (DLPR); with policies CP3 (placemaking principles), CP4 (character and context), and CP20 (historic environment) of the Derby City Local Plan – Core Strategy 2017 (DCLPCS); and with the Framework in this regard.
25. Similarly, the proposed advertisement (Appeal B) on the communications hub would detract from visual amenity and so would conflict with these development plan policies, and with Policy E26 (advertisements) of the DLPR, which, amongst other things seek to protect visual amenity and so are material.

Public Safety

26. With reference to public safety, I note the comments of Derbyshire Police. The appeal site is said to be in one of the main locations for crime and anti-social behaviour in the city. This is said to be a problem both during the day and in the evening. No compelling evidence has been provided that would cause me to disregard these comments from the Police.
27. Concerns are raised that in the context of this location, the proposed hub would obstruct sightlines for 'casual supervision' along the street, and formal surveillance of the area by CCTV.
28. The appellant makes reference to the communications hub unit being capable of housing a CCTV camera with recordings being made available to the Police, as is said to occur elsewhere. However, from the evidence this has not resolved the concerns of the Police.
29. The scale, design and position of the proposed communications hub, with the illuminated advertisement on its southern face, would act as a visual barrier to both casual observations and formal CCTV surveillance. Together with the concerns raised by the Police regarding this part of the city centre, the proposed hub would have an adverse effect on crime and anti-social behaviour in the area.
30. The proposal would include a defibrillator and could be used to display public safety messages. However, this would not outweigh the harm that would be caused with regard to crime and anti-social behaviour.
31. For these reasons, the proposed communications hub (Appeal A) would adversely affect public safety. Consequently, it would conflict with saved policy

E24 (community safety) of the DLPR; with policy CP3 of the DCLPCS and with the Framework, in this regard.

32. Similarly, the proposed advertisement (Appeal B) on the communications hub would detract from public safety and so would conflict with these development plan policies and with Policy E26 of the DLPR, which, amongst other things, seek to protect public safety and so are material.

Conclusion

33. For the reasons given above, I conclude that Appeal A is dismissed and Appeal B is dismissed.

Andrew Parkin

INSPECTOR