



Appeal Decisions

Site visit made on 15 October 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th January 2025

Appeal A Ref: APP/C1055/W/24/3346190

Pavement outside 33 East Street, Derby DE1 2AL

- 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 In Focus Network Limited against the decision of Derby City Council.
 - The application Ref is 24/00354/FUL.
 - The development proposed is Installation of a freestanding telephone apparatus with a fixed defibrillator and advert display.
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Appeal B Ref: APP/C1055/H/24/3346189

Pavement outside 33 East Street, Derby DE1 2AL

- 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 In Focus Network Limited against the decision of Derby City Council.
 - The application Ref is 24/00355/ADV.
 - The advertisement proposed is Display of internally illuminated digital display screen.
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Decisions

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

Preliminary Matters

3. The appeal site address above is taken from the application forms. The planning and advertisement applications were submitted on a joint form and the same description was used for both proposals. However, the appeal forms use different descriptions and the Council uses different descriptions again. I have therefore used the appellant's description of the proposal from the application form for Appeal A and the Council's description from the refusal notice for Appeal B in the heading above.
4. The two appeals relate to the same site. Appeal A relates to the refusal of planning permission for the installation of the hub structure for the telephone apparatus and advert display, and Appeal B is against the refusal of an internally advertisement display on one other side of the hub structure. I shall consider each appeal on its individual merits. However, as they are inextricably linked, I will deal with the two appeals in a single document to avoid duplication.
5. In respect of Appeal B, powers under the above Advert Regulations and the National Planning Policy Framework (the Framework) make it clear that control of advertisements may be exercised only in the interests of amenity and public safety, taking account of cumulative impacts. Issues of public safety have not

been raised by the Council as a reason for refusal and the Highway Authority has raised no objection. Nothing I saw on my site visit would lead me to take a different view. I have therefore confined my assessment to amenity issues.

6. For advertisement applications, there is no need to have regard to the development plan. Nonetheless, whilst the policies referred to by the Council have not by themselves been decisive for Appeal B, I have taken them into account as a material consideration where relevant.
7. During the appeal, a revised Framework was published in December 2024 that replaces the previous version published in December 2023. However, as any policies that are material to this decision have not fundamentally changed in the Framework, I am satisfied that neither party would be prejudiced by my consideration of the revised Framework in reaching my decision.

Main Issues

8. For Appeal A the main issue is whether the proposal would preserve the settings of the Grade II* listed Church of St Peter, the locally listed Co-operative Society Buildings and Derbyshire Building Society and Green Lane Conservation Area (the GLCA).
9. For Appeal B the main issue is the effect of the proposal on the visual amenity of the area.

Reasons

Special interest and significance of the heritage assets

10. The Church of St Peter¹ is Grade II* listed and dates from the 12th century. The special interest and significance of the listed building, insofar as it relates to these appeals, are largely derived from its surviving architectural and historic interest and as part of the evolution and growth of Derby. The special interest and significance also stem in part from the surroundings in which the listed building is experienced. Its size and location on the corner of St Peter's Street and St Peter's Churchyard, close to the junction with East Street, make it a prominent building in the urban street scene. It is visible from a number of public vantage points and streets and is a visual focal point for East Street when progressing eastwards. Hence this street scene setting, including from East Street, allows the designated heritage asset to be appreciated and thus contributes to its heritage merit.
11. The Council also refers to a number of nearby locally listed buildings, which I have considered as non-designated heritage assets. There are two Co-Operative Society buildings: one with a green copper dome designed by Alexander Macpherson and built between 1912-1917; and the other a 4-storey, curved, modern-movement department store built 1938-39 & 1948-50², both on the corner of East Street and Exchange Street. The Derbyshire Building Society building is an Art Deco style cinema designed by George Cole and opened in 1938. The significance of the buildings, for the purposes of these appeals, is largely derived from their surviving architectural and historic interest reflecting the economic and social development of Derby. These buildings are set along the back of the pavement where the wide pedestrianised nature of East Street means the

¹ National Heritage List for England: list entry number 1229224

² The war curtailed work for a decade

buildings are easily seen and their significance can be appreciated. Whilst the individual buildings have their own specific interest, they also share a group value as part of the overall street scene.

12. East Street and the appeal site lie outside, but close to the GLCA. The boundary passes through the middle of part of St Peter's Street, which runs along the western end of East Street, and includes St Peter's Church and other commercial buildings as part of the centre of Derby. Further to the west the GLCA becomes quieter with a number of streets of terraced housing, which are of a different scale to the town centre buildings. Insofar as it relates to these appeals, the significance of the GLCA is the relationship of surviving historic street patterns and buildings close to the city centre, as well as the variety of building styles, forms and sizes. Progressing westward along East Street one is afforded views of the GLCA and directly along St Peter's Churchyard and hence contributes to the setting of the GLCA.

Appeal proposal and effects

13. The proposal would involve the erection of a freestanding rectangular dark grey/brown coloured steel and alloy hub structure that would be about 2.63m tall, 1.34m wide and 0.317m thick. On one side the hub would contain an internally illuminated advertisement screen that would occupy most of the side of the stand and display a sequence of static digital images. The illumination and display-rate of the advertisements can be controlled, as can the hours of illumination. On the other side there would be a canopy that would project out about 0.6m over a public phone, interactive touch screen and a defibrillator. The top of the canopy would have a solar panel.
14. The hub structure would be located in a wide pedestrianised street, which is a contained thoroughfare that forms part of Derby's main commercial and retail centre. It would be positioned in the pavement about 2.2m away from the frontage of the modern TSB building, close to an existing street lighting column. There are a number of benches some distance either side of the proposal and some existing public phone boxes, but overall the area is generally devoid of street furniture and clutter. The wide open paved area also allows views towards the Church of St Peters and the GLCA. The existing overhead car park access route does not significantly obscure these views. When looking eastwards, the gentle curve of East Street reveals the main façade and copper dome of the Co-Operative building, which are visually striking features in the street scene.
15. By reason of its size, height and its siting as a freestanding structure some distance away from buildings in the contained and built up nature of East Street, it would be a large dominant structure and a visual intrusion that would interfere and compete with views of St Peter's Church and the GLCA. The proposed illuminated advertisement panel would be viewed against the sweeping façade of the copper dome building and the display of digital advertisements would also interfere and compete with views of this locally listed building.
16. With regards the modern-movement Co-Operative building and the Art Deco cinema style building, these are contained within straighter sections of street frontages. I am satisfied there would be little direct intervisibility between these buildings and the proposed hub structure, such that their significance would not be harmed.

17. Overall I find the proposal would fail to preserve the setting of the Grade II* listed St Peter's Church, the GLCA and the locally listed copper dome Co-Operative building, thus harming their significance. It would be an unduly prominent structure in the streetscene to the detriment of the visual amenity of the area.
18. I appreciate East Street is a mainly commercial area and that illuminated advertisements are not uncommon, but these are mainly located at fascia level contained within shopfronts. In contrast, the proposed advertisement would be at a lower level and sited away from buildings in a pedestrianised street. Even if the brightness of the advertisement screen was within industry-approved luminance levels and was switched off during the night, this would not mitigate against the visual intrusion.
19. The Framework requires the cumulative impacts of advertisements to also be taken into account. I saw a number of other similar digital advertisement/phone hub installations along East Street, including one closer to St Peter's Church. I have not been provided with details of how this decision was made, but from my site observations it already interferes with views of the listed Church and GLCA and reinforces my concerns about the impact on heritage assets. The proposal would introduce street clutter and visual intrusion.

Other Matters

20. The appeal proposal is one of a number the appellant is appealing across the city. The appellant draws my attention to the fact the size of the advertisements would be similar to those found in some other parts of the city or seen at bus shelter units. That may be the case, but they are in different locations and contexts and the proposal is not part of a bus shelter. The appellant has included examples of applications for advertisements that have been granted consent³ around the city. From their descriptions they are for double-sided free standing advertising units with digital displays and all of them are described as 'replacements' and are in different locations to the appeal site. Therefore, they differ to the proposal before me and are not directly comparable. Furthermore, I have little detail of the relationship these signs may have had with heritage assets in their vicinity. In any event, all decisions turn on their own characteristics, site-specific issues and the evidence before the decision-maker and I must consider the appeals on their own merits.

Heritage balance

21. The Framework advises at paragraph 212 that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets, or from development within their setting and that this should have a clear and convincing justification. In light of the scale and nature of the proposal I find the harm to be less than substantial, but nevertheless of considerable importance and weight.
22. Paragraph 215 of the Framework requires that less than substantial harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use. Where there is harm to the

³ Local Planning Authority Ref: 22/00636/ADV, 22/00634/ADV and 22/00635/ADV all approved 16 June 2022

significance of a non-designated heritage asset paragraph 216 advises that a balanced judgment is required.

23. Paragraph 119 of the Framework supports the expansion of electronic communication networks, which it states is essential for economic growth and social well-being. With the increase in mobile phone usage, public phone box use has declined. The proposal would provide a means for the public to access a phone, call the emergency services and provide other facilities such as free Wi-Fi, phone charging services, and through the interactive screen access Council and other community information, helping residents and visitors. The proposal would also contribute to the expansion of the 4G/5G communication networks across the city centre, although I have no substantive evidence before me that indicates coverage is particularly lacking in this location. The provision of a defibrillator would also contribute to health and wellbeing and could save lives. However, these benefits would be modest when considering the scale of the proposal and do not outweigh the harm I have found to designated and non-designated heritage assets.
24. Therefore, for the reasons above I conclude that the proposal would fail to preserve the settings of the Grade II* listed Church of St Peter, the copper dome Co-operative Society (non-designated heritage asset) and the Green Lane Conservation Area. Also, for the reasons above, the advertisement would be harmful to visual amenity.
25. The proposal would be contrary to Policies GD5, E18, E19 and E26 of the adopted City of Derby Local Plan Review 2006 and Policies CP3, CP4 and CP20 of the Derby City Local Plan - Part 1: Core Strategy (adopted 2017) and the Framework as far as they are relevant. Cumulatively these policies require that development is of high quality design, makes a positive contribution to character, distinctiveness and identity, and preserves or enhances heritage assets.

Conclusion

26. For the reasons set out above both appeals are dismissed.

K Stephens
INSPECTOR