
Appeal Decision

Site visit made on 2 May 2017

by Peter Rose BA MRTPI DMS MCMi

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th May 2017

Appeal Ref: APP/A1530/Z/16/3162811

31, 31A and 32 High Street, Colchester CO1 1DB

- 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 Metro Bank PLC against the decision of Colchester Borough Council.
 - The application Ref: 161811, dated 8 July 2016, was refused by notice dated 15 September 2016.
 - The advertisements proposed are 3 fascia signs, 2 projecting signs and 4 other signs.
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Decision

1. The appeal is allowed and express consent is granted for 3 fascia signs, 2 projecting signs and 4 other signs at 31, 31A and 32 High Street, Colchester CO1 1DB. The consent is for five years from the date of this decision and is subject to the five Standard Conditions set out in the Regulations and to the following additional conditions:
 - 1) The signs authorised by this consent shall not be illuminated except between the hours of 0800 and 2000 Monday to Friday, and between the hours of 0800 and 1800 on Saturdays, and between the hours of 1100 and 1700 on Sundays.
 - 2) The intensity of the illumination of the signs authorised by this consent shall be no greater than 300 candela per square metre.

Main issue

2. The control of advertisements is exercisable only in the interests of amenity and public safety.¹ Public safety is not in dispute. The main issue in this appeal relates to the effect of the display upon amenity and with particular regard to proposed illumination.
3. In the context of amenity, it is also my statutory duty to have regard to the effect of the proposal upon the character and appearance of the surrounding Colchester No 1 Conservation Area.² I am further mindful of the presence of listed buildings in the vicinity of the site and to which I have particular regard as material considerations.

¹ Regulation 3

² Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

Reasons

4. The appeal site comprises the ground floor of prominent two/three storey premises located within a commercial area of Colchester Town Centre. The premises have a main High Street frontage, and a more enclosed, return frontage along Pelham's Lane.
5. The main High Street frontage faces out towards Colchester Town Hall, an exceptional building of classical design and which is Grade I listed. The listed building lies on the opposite side of a fairly wide and busy high street and commands a variety of views in different directions. Adjacent lamp columns are also listed at Grade II*. The appeal site is itself locally listed due to its Burton House style first floor elevation. Further listed buildings are nearby, including at 28-30 High Street, and on the opposite side of the High Street. This part of the Conservation Area also comprises other impressive buildings of various forms and styles and all contributing, in different ways, to its wider character and appearance.
6. Although within an area of heritage-rich character and appearance, the appeal site also contributes to a functionally modern and vibrant commercial high street displaying a range of shopfronts and advertising and of variable design.
7. The proposal is for signage across both ground floor frontages. This would involve a fascia sign and a box sign to each frontage, and further signs around the main High Street entrance and attached to each of two adjacent ATM's. The signs would generally reflect a combination of acrylic, stainless steel and plexiglas, and individual letters and backgrounds would be internally illuminated.
8. The proposal is to limit the intensity of illumination to no more than 300 candela per square metre (cdm), and to ensure the signs are not illuminated when the premises are closed. By way of comparison, the appellant refers to appeal decision Ref: APP/A1530/Z/15/3045203 dated 18 September 2015. That decision was in part to allow an illuminated fascia sign elsewhere in the Conservation Area at 19 Head Street. In that instance the appellant states that illumination of some 600 cdm applied, and the consent is not subject to similar limitations to those proposed for this appeal scheme.
9. The Council's Shopfront Design Guide Supplementary Planning Document (the SPD) Adopted June 2011 sets out various design guidance and states that internally illuminated box signs will no longer be permitted on any shop. It also indicates that illumination, where required, should generally be achieved either by external fittings or through backlit or halo lettering, and makes particular reference to the need to avoid over-illumination and glare.
10. Even so, little specific technical evidence is offered by the Council to satisfactorily substantiate any particular harm alleged to be arising in this instance through either over-illumination or glare or related matters. Further, the government's Planning Practice Guidance (the Guidance) states that, if advertisement policies are considered necessary to protect the unique character of a particular area, such policies should be evidence-based.³
11. It is also significant that, by virtue of subsequent consent Ref: 162624 dated 25 November 2016, the Council has authorised the same display as subject to

³ Paragraph: 029 Reference ID: 18b-029-20140306

this appeal but in the absence of illumination. This indicates that the authority has no objection to the principle of the advertising as designed, and is a finding with which I agree. Each sign, whilst of modern design, would be of relatively limited form and extent. The display would be largely framed by existing piers, and would sit proportionately in a balanced and sympathetic fashion within or below fascia level.

12. In relation to the further disputed feature of illumination, I am satisfied that the restrictions as proposed mean there would only be a relatively small proportion of each day beyond the hours of natural daylight in which the signage would need to be lit and that, during those hours, the intensity of illumination would be relatively modest. The glazed shopfronts would also mean the signage would be broadly viewed against an indirect and relatively consistent backdrop of existing illumination from within the premises.
13. Hence, notwithstanding its purpose in seeking to publicise the premises, I find the proposed scheme to be relatively discreet with regard to both its overall design and its accompanying degree of illumination, and that it would offer a reasonable balance between the commercial needs of the bank and the local interests of amenity. The relative sensitivity and contained nature of the display mean the scheme would not appear discordant or incongruous or otherwise be detrimental to the character or appearance of the street-scene.
14. I therefore do not consider the proposed scheme would be harmful to the historic significance of the appeal site itself, which essentially relates to the upper floor, or to the settings of nearby listed buildings, and that the proposal would not fail to preserve or enhance the character or appearance of the Conservation Area.
15. Whilst the Council has drawn my attention to the policies it considers to be relevant to this appeal, the development plan is a material consideration only, as is the SPD. I therefore have regard to relevant provisions of Policies UR2 and ENV1 of the Colchester Local Development Framework Core Strategy Adopted December 2008, and to Policies DP1 and DP14 of the Colchester Local Development Framework Development Policies Adopted October 2010, but not as determinative factors in my decision.
16. I am also mindful of the context set out in the National Planning Policy Framework which states that only those advertisements which will clearly have an appreciable impact on a building or on their surroundings should be subject to the local planning authority's detailed assessment.⁴
17. In summary, the recent consent granted by the Council is a significant fallback position for the appellant and confirms my assessment that, independent of illumination, the design of the display would not be harmful to amenity. In particular, I find the display would generally accord with such considerations as scale, rhythm and symmetry as indicated by the SPD. Illumination would only be necessary outside daylight hours and the appellant's proposed condition would further limit this feature to those hours when the premises are open. Beyond that, during those hours when open, the intensity of illumination would be both modest and be formally regulated.

⁴ Paragraph 67

18. I therefore conclude that the proposed illuminated signs would not be harmful to amenity.

Other matters

19. I have noted the various references made to other planning decisions, and am mindful of the importance of consistency in decision-making. The Council makes general reference to other appeal decisions with contrasting outcomes to the decision at 19 Head Street. Full details of such cases are not before me, but each decision would be necessarily fact and context sensitive. Similarly, I do not consider that a consent for the appeal scheme would represent a precedent for other advertising but would instead necessarily reflect the specific planning merits of this particular proposal as identified.

20. I also note a request previously made by a local interested party in response to the Council's initial publicity of the application. This asked for action to be taken as part of any consent in relation to restoration of an existing clock contained within the first floor elevation.⁵ This is not a matter which comes within the formal jurisdiction of this application for express advertisement consent, but I observed at my visit that the clock appeared to be in working order.

Conditions

21. Aside from the Standard Conditions⁶, and in accordance with the terms of the proposal, conditions are imposed to restrict illumination to those hours when the premises may be open for use and to limit the intensity of illumination of the signs. Such conditions are necessary to ensure that the visual impact of the display is not harmful to amenity.

22. A further condition was suggested by the appellant relating to a maintenance agreement but, in light of the relevant advice towards planning conditions set out in the Guidance⁷, I consider this to be unnecessary. In particular, Standard Condition 3 already requires advertisements to be maintained in a condition that does not impair the visual amenity of the site.

Conclusion

23. For the above reasons, the appeal is allowed, subject to the attached conditions.

Peter Rose
INSPECTOR

⁵ See letter from Sir Bob Russell dated 8 July 2016

⁶ Schedule 2 of the Regulations

⁷ Paragraph: 003 Reference ID: 21a-003-20140306