



Appeal Decisions

Site visit made on 11 July 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th September 2023

Appeal A Ref: APP/A1530/W/22/3313696

Footpath adjacent Colchester Town Station, St Botolph's Circus, Colchester CO2 7EF

- 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 Mr James Browne on behalf of BT Group PLC against the decision of Colchester Borough Council.
 - The application Ref 222450, dated 12 September 2022, was refused by notice dated 15 November 2022.
 - The advertisement proposed is removal of existing BT phone box and installation of a proposed replacement BT street hub and associated display of advertisement to both sides of the unit.
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Appeal B Ref: APP/A1530/Z/22/3313699

Footpath adjacent Colchester Town Station, St Botolph's Circus, Colchester, CO2 7EF

- 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 Mr James Browne against the decision of Colchester Borough Council.
 - The application Ref 222449, dated 30 August 2022, was refused by notice dated 15 November 2022.
 - The development proposed is two digital 75 inch LCD display screen, one on each side of the Street Hub unit.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. As set out above there are two appeals on this site. They differ only in that appeal A is for planning permission and appeal B is for express advertisement consent. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The appellant has not provided an application form in respect of appeal B. I have therefore taken the appeal address from the appeal form. I have taken

the appellants name and used the application date and description of development from the Council's decision notice.

Main Issues

5. The main issues for Appeal A are the effect of the proposal on;
 - the character and appearance of the area having particular regard to the setting of a Listed Building and Locally Listed Buildings; and
 - pedestrian safety.
6. The main issues for appeal B are the effect of the proposal on;
 - the amenity of the area particular regard to the setting of a Listed Building and Locally Listed Building; and,
 - public safety.

Reasons (Appeal A and Appeal B)

Character, appearance and public amenity

7. The appeal site is section of footpath to the side of a roundabout. The roundabout serves a number of roads, including roads which access the town centre and car parks which results in it being highly trafficked. Street furniture in the area mostly consists of functional signs and streetlights.
8. The proposal is for a 'Street Hub' as described by the appellant which is a free standing structure capable of displaying advertisements on screens both sides of the unit. The Street Hub would be 95cm wide x 167cm high and content would be able to be displayed at 10 second intervals.
9. The proposals' location in the centre of the footpath would be conspicuous and stand out in the street scene, particularly due to its wide design and that there are no similar developments in the area. The illumination and frequently changing advertisements would worsen this effect and draw attention to the structure, particularly due to the area being highly trafficked by pedestrians and vehicles.
10. Policy SP7 of the Colchester Borough Local Plan 2013-2033 Section 1 North Essex Authorities' Shared Strategic Section 1 Plan Adopted February 2021 (CBLP1) and DM15 of the Colchester Borough Council Local Plan Colchester Borough Local Plan 2017-2033 Section 2 Adopted July 2022 (CBLP2) generally seek to ensure development responds positively to local character which the proposal would be contrary to.

Setting of Station House

11. The site is within the setting of Station House (a Grade II Listed Building). With respect to Appeal A, s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

12. The significance of the Station House derives in part from its appearance by its use of red brick, large sash windows with glazing bars and central door with porch. Its significance has not been undermined by more recent developments such as the Magistrates Court.
13. The appeal site contributes to the setting of the significance of this listed building by being part of a predominantly open and spacious pedestrianised area which allows the qualities of the listed building to be experienced.
14. The site's central location within the footpath as well as the modern, vertical block design of the proposal would stand out within this setting.
15. Consequently, the contribution that the setting makes to the significance of the listed building would be compromised by the stark and modern design of proposal as well as its overall size and positioning in the centre of the footpath. The harm caused to the setting of the listed building would be less than substantial, this harm is of considerable importance and weight. This harm must be weighed against the public benefits of the proposal.

2-3 and 4 St Botolph's Circus

16. The Council advise that 2-3 and 4 St Botolph's Circus are Locally Listed Buildings. These buildings are attached to the Station House and form a group of buildings that are of a similar design and appearance. The open and spaciousness of the area allows for this group of buildings, in combination with the Station House to be enjoyed which the proposal would erode. The proposal, by virtue of its design and appearance, would diminish their significance.
17. With regard to the effect on the significance of a non-designated heritage asset, the National Planning Policy Framework (the Framework) requires a balanced judgement having regard to the scale of any harm and the significance of the heritage asset.
18. The proposal's public benefits include an upgraded electronic communication infrastructure allowing the Council to display local messages. There would also be marketing opportunities for local businesses without charge. The street hubs can be fitted with air quality and CO2 sensors, phone charging, charity information, mapping and an emergency call button which could improve health in the area and provide wider public benefits. It is also proposed that the street hub would be powered by renewable energy and improve phone coverage in the area.
19. These public benefits weigh in favour of the scheme and are consistent with paragraphs 7, 13, 38, 42, 81, 86, 114, 126 and 136 of the Framework. However, these benefits do not outweigh the extent of harm I have identified to the significance of the listed building nor with regard to the significance of the non-designated heritage asset.
20. In relation to Appeal A, I conclude that the proposal would harm the character and appearance of the area and would not preserve the setting of the listed building or locally listed buildings. The proposal would conflict with policy SP7 of the CBLP1 as well as policies DM15 and DM16 of the CBLP2 which amongst other things, seeks to protect heritage assets.
21. In relation to Appeal B, the impact of the proposal on the character and appearance of the area and the setting of the listed building and locally listed

buildings applies equally with regards to the effect on amenity. I therefore conclude that the proposal would have a harmful effect on amenity. It would be contrary to policies DM15 and DM16 of the CBLP2.

22. In relation to both appeals, the proposal would be contrary to paragraphs 199 and 200 of the Framework which advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

Pedestrian and public safety

23. The proposal would be located centrally within the pavement and due to its width, a large section would be occupied. There are several bollards next to the pavement, a sign for the train station and lamppost which combined with the proposed advert would create an awkward arrangement for pedestrians to navigate.
24. The proximity to the train station, and town centre is also likely to result in the area being highly trafficked, particularly during peak times. Due to the position of the proposal and its width, combined with other street furniture, this could mean that pedestrians would be forced into the road when trying to navigate around it. Furthermore, the solid screen and height would block some views for pedestrians which could cause further conflict.
25. The combination of the proposal with existing street furniture would infringe the minimum distances advocated by the Department for Transport Manual for Streets (2007), Inclusive Mobility (2002) and the Disability Discrimination Act 1995. While the proposal would leave above the minimum width of footway suggested by this guidance, due to the location of the proposal in a highly trafficked area next to the train station and close to the town centre, combined with the other obstacles in the footway, I consider that the proposal would not result in sufficient space to ensure that there would not be a safety risk to users of the highway.
26. The proposal, due to its position, width and height, would be highly visible for road users. The bright illuminance and frequently changing images which are uncharacteristic of the area, would result in a distraction for motorists using the roundabout and road nearby. Furthermore, access is available to the front of the train station for drop offs and collections which the proposal could obstruct to the detriment of highway safety.
27. In relation to appeal A, I conclude the proposal would harm highway safety. It would be contrary to policies DM20 and DM21 of the CBLP2. Amongst other things, these seek to ensure that development safeguards existing routes for walking and create safe layouts that minimise conflict between traffic, cyclists and pedestrians.
28. In relation to appeal B, the impact of the proposal on highway safety applies equally with regard to the effect on public safety. I therefore conclude that the proposal would have a harmful effect on public safety. It would be contrary to policies DM20 and DM21 of the CBLP2.

Other Matters

29. The appeal site lies adjacent to the Colchester Area 1 Conservation Area (CA). The CA predominantly includes the commercial centre of Colchester which is most visible and appreciated from within the CA itself. While there are some commercial aspects, the appeal site includes residential areas and is sufficiently separated to not form part of this commercial centre. The proposal would therefore not be seen in the context of the CA and as such, I find that the proposal would have a neutral impact on the setting of the CA.
30. The proposal suggests that two existing telephone kiosks would be removed. It is unclear exactly which phone boxes will be removed however those that are closest are not within the appeal site or immediately close by, instead they lie towards the rear of a building and do not impact on the designated heritage assets. Their removal could reduce some clutter in the area but their location is relatively discreet when compared to the appeal proposal and as such the location is not of a direct comparison to the proposal.
31. I have had regard to the appeal decisions¹ referred to by the appellant and based on the information provided both appeals are some distance away from the appeal site where the character and appearance of the areas is different. In any case I have considered the appeals on their own merits.

Conclusions

32. For the reasons set out above, and having had regard to all other material considerations, I conclude that the appeals A and B should be dismissed.

D Wilson
INSPECTOR

¹ APP/N5660/W/18/3199793, ADA-180-2016