



Appeal Decisions

Site visit made on 12 December 2023

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal A: Appeal Ref: APP/A1530/W/22/3313747

Footpath on land adjacent to 42-46 Crouch Street (Tesco Express), Colchester CO3 3HH

- 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 BT Group PLC against the decision of Colchester Borough Council.
 - The application Ref 222457, dated 13 September 2022, was refused by notice dated 17 November 2022.
 - The development 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: Appeal Ref: APP/A1530/H/22/3313749

Footpath on land adjacent to 42-46 Crouch Street (Tesco Express), Colchester CO3 3HH

- 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 British Telecom PLC against the decision of Colchester Borough Council.
 - The application Ref 222456, dated 13 September 2022, was refused by notice dated 17 November 2022.
 - The advertisement 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: Appeal Ref: APP/A1530/W/22/3313747

1. The appeal is dismissed.

Appeal B: Appeal Ref: APP/A1530/H/22/3313749

2. The appeal is dismissed.

Preliminary Matters

3. Following my site visit, it became apparent that insufficient information in respect of these appeals had been provided. A new timetable for the appeals was provided to the parties, and I have had regard to the evidence submitted.

4. The proposals are located on the same site and relate to each other. I have therefore considered the appeals in a single decision letter to avoid repetition. However, I have considered each proposal on its individual merits.
5. The details of the appellant in the headings above have been taken from the application forms as the right of appeal rests with the original applicant.
6. In respect of Appeal A, the description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
7. A revised National Planning Policy Framework (the Framework) was published in December 2023 but there are no material changes relevant to the substance of the appeal.
8. Reference has been made to an appeal elsewhere¹ within Colchester. This appeal is the subject of a separate decision.

Main Issues

9. The main issue in respect of Appeal A is the effect on the character and appearance of the area, with due regard to designated heritage assets.
10. The main issues in respect of Appeal B are the effect on amenity and public safety.

Reasons

Character, Appearance and Amenity

11. The appeal site is located within an attractive landscaped area close to the busy highway of Southway. The hard-paved landscaped area includes trees, seating and other street furniture, and is located on the edge of the commercial area of Colchester.
12. Within this context, the proposed street hub would be a prominent and obtrusive feature, introducing clutter into what is otherwise a pleasant area of landscaping. The proposed illuminated advertisements would add to this jarring appearance, with the illumination and changing nature of the advertisements drawing the eye. The proposed Street Hub is taller and slightly wider than a typical phone box, and whilst it may be slimmer it would introduce a freestanding slab-like feature with illuminated displays into part of the streetscape where no such feature currently exists.
13. The appeal site is located just outside the Colchester Area 2 Conservation Area (the CA) which extends around the area of landscaping and towards the west. The CA includes streetscapes of attractive traditional buildings representative of the historic development of the area, and it is this historic and architectural character which contributes to the importance of the CA as a designated heritage asset. The pleasant open character of the area of landscaping which contains the appeal site makes a positive contribution to the appreciation of the

¹ Appeal Ref: APP/A1530/H/22/3313744

CA and its setting. Due to their free-standing nature and location, the proposals would be overly prominent in views into and out of the CA. Also due to the modern design of the host unit and the jarring nature of the advertisements, the proposals would contrast uncomfortably with the streetscape of the CA and would fail to preserve its setting.

14. My attention has been drawn to the Grade II Listed Buildings of 107 Crouch Street (Crouched Friars) and the gate and gate piers of No 107 which face onto the landscaped area. The pleasant open aspect of this landscaping enables the appreciation of the historic and architectural interest of these designated heritage assets. The overly conspicuous and incongruous modern appearance of the appeal proposals within the landscaped area would detract from the appreciation of the designated heritage assets, and would therefore fail to preserve or enhance the setting of these listed buildings.
15. In respect of both the CA and listed buildings, the harm to these designated heritage assets would be less than substantial. However, I attach great weight to the conservation of these designated heritage assets in accordance with paragraph 205 of the Framework.
16. The appellant emphasises the benefits that would arise from the proposals, including the provision of wi-fi, 5G coverage and services for visitors to the area. Reference is also made to the potential to install air quality and CO2 sensors. I am also mindful of the benefits to business arising from advertising, including potential free advertising and public service announcements, although the benefits arising from 2 displays would be very limited. Furthermore, it has not been demonstrated that these benefits could not be provided by infrastructure of a more appropriate design and location. These benefits therefore carry very limited weight in favour of the design and location of the appeal proposals.
17. It is also proposed to remove a call box in a different location. Although limited details have been provided in respect of this, a call box I observed to the west of the site is some distance from the appeal site and its removal would not mitigate for the harm arising from the proposals in this location. The call box I observed also did not include illuminated displays, as would be the case in respect of the appeal proposals.
18. Considered individually and cumulatively, the public benefits arising from the proposals carry no more than limited weight in favour of the appeals, and would not outweigh the harm I have identified.
19. For the reason stated above, in respect of Appeal A, the proposal would lead to unacceptable harm to the character and appearance of the area, and would fail to preserve or enhance the setting of the CA or the identified Listed Buildings. The great weight I give the harm in respect of designated heritage assets would not be outweighed by the limited benefits arising from the proposal. The proposal would therefore be contrary to Policies DM15 and DM16 of the Local Plan which relate to matters of design, amenity and the historic environment. The proposal would also be contrary to the Framework in respect of conserving and enhancing the historic environment.
20. In respect of Appeal B, the proposal would lead to unacceptable harm to the amenity of the area. Insofar as planning policy is relevant to the consideration

of amenity, the proposal subject to Appeal B would also be contrary to the local and national planning policies identified in respect of Appeal A.

Public Safety (Appeal B only)

21. The Council's reason for refusal refers to an excessively bright level of illumination proposed, which it considers would cause a distraction to motorists.
22. The appeal site is on the edge of a commercial area next to a road with a relatively high traffic flow and close to a junction. The site is also in close proximity to a pedestrian crossing, a bus-stop and a seating area, all of which indicate a relatively high pedestrian flow.
23. However, the level of illumination can be controlled by condition. Subject to such a condition limiting the level of illumination to an acceptable degree, such as that recommended by the Institution of Lighting Professionals, I do not consider that the proposed advertisement would lead to unacceptable harm to public safety. This would be the case even allowing for the sensitive location of the site in respect of highway activity.
24. On that basis, the proposal would not conflict with the sustainable transport and safety requirements of Policies DM20 and DM21 of the Local Plan.

Other Matters

25. I have had regard to the appeal decisions referred to by the appellant, although it has not been demonstrated that they closely reflect the context of the appeal proposals. They do not therefore lead me to a different conclusion on the impact of the appeals before me based on what I have seen and read. In any event, I have determined these appeals on their own merits.

Conclusion

26. Notwithstanding my conclusions in respect of public safety, I have concluded that the proposals would be harmful in respect of amenity as well as character and appearance, including harm to the setting of designated heritage assets. The identified harm is not outweighed by any public benefits that may arise.
27. For the reasons given, I conclude that both Appeal A and Appeal B should be dismissed.

David Cross

INSPECTOR