



Appeal Decision

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 Ref: APP/A1530/H/22/3313744

**Footpath outside 122 High Street (The Salvation Army), Colchester
CO1 1SZ**

- 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 222454, dated 12 September 2022, was refused by notice dated 15 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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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the advertisement in the heading above has been taken from the application form. A different wording has been entered in Part E of the appeal form. Neither of the main parties has provided written confirmation that a revised description has been agreed. Accordingly, I have used the one given on the original application.
3. The appellant refers to a refusal of planning permission and that the appeal is lodged against the decision of the Council to refuse both full planning and advertisement consent. However, it is only the matter of advertisement consent which is before me in respect of this appeal. Planning permission is not being considered and would require separate consideration.
4. The government published a revised National Planning Policy Framework (the Framework) in December 2023. This does not materially change the planning policy context in respect of the main issues and I have determined the appeal on the basis of the new Framework.
5. Reference has been made to appeals elsewhere¹ within Colchester. These appeals are the subject of separate decisions.

¹ Appeal Refs: APP/A1530/W/22/3313747 and APP/A1530/H/22/3313749

Main Issues

6. The main issues are the effect of the proposal on:

- The amenity of the area; and
- Public safety.

Reasons

Amenity

7. The appeal site is located within a busy commercial area in a streetscape which is primarily of a retail and service character at ground floor level with a mixture of uses above. The advertisements would be located on a free-standing hub unit set close to the kerb at the edge of the footpath.
8. There are a number of features within the wider streetscape reflective of its character as a commercial area. This includes bus stops, bus shelters (some of which include advertisements) and a free-standing digital display similar to that proposed. However, the extent of the pavement in which the appeal proposal would be located is relatively uncluttered.
9. The appeal site is within the Colchester Area 1 Conservation Area (CA) which, on the evidence before me, is based on the historic core of the city including the historic walled town and settlements immediately outside. There are also a number of Listed Buildings in the vicinity of the site, as set out in the Council's Officer report and described more specifically in the appellant's statement. Although there are a number of modern buildings in the vicinity of the appeal site as well as modern shop fronts, the streetscape has retained its traditional character which reflects its inclusion within the designated heritage asset of the CA and the proximity of Listed Buildings.
10. Within the above context, the appeal proposal would introduce a stark and bulky modern feature which would contrast uncomfortably with this extent of the traditional streetscape. The modern sleek design would also not be sufficient to overcome the harm arising from the obtrusive location of the proposal and the more strident appearance of the digital displays, and this design in itself would appear as a jarring feature within this context.
11. As referred to previously, there is a free-standing digital display a relatively short distance from the appeal site which is used to display travel information as well as public announcements and advertisements. However, this served to emphasise the prominence and incongruous appearance of this form of display in this area. I have also not been made aware of the reasons which led to the introduction of this existing display, and it has therefore not been demonstrated that those circumstances are a direct parallel to the appeal proposal. In any event, the proposal would result in views along this part of the streetscape being dominated by two digital displays in the pavement, which cumulatively would have an overbearing appearance.
12. The appellant refers to the removal of two existing phone boxes a short distance to the west of the appeal site. However, those that I saw were distinctly separate from the appeal site and do not set a prevailing context for the proposal. Although the appeal proposal would have a smaller footprint than the kiosks this would only be apparent when viewed side-on, and the smaller

area covered by the host unit would not compensate for the height and bulk of the proposed advertisements in views along the streetscape. Furthermore, it has not been demonstrated that the phone boxes that would be removed include an illuminated digital display of the form proposed.

13. The phone boxes I observed were of a relatively unkempt appearance and their removal would be a benefit. But nevertheless, the removal of these boxes would not outweigh the harm arising to the amenity of the area resulting from the incongruous design and location of the appeal proposal. In any event, a mechanism to ensure the removal of the kiosks has not been presented to me.
14. There are also illuminated displays associated with nearby retail units, but these are viewed as being integral to the commercial façade and do not justify the introduction of the proposed overly prominent freestanding display screens within the pavement.
15. Drawing the above together, I conclude that the proposal would result in an obtrusive and overly prominent feature and would introduce clutter to the streetscape, with resultant harm to the amenity of the area. The proposal would detract from the character and appearance of the CA and would also harm the setting of nearby Listed Buildings, which are matters relevant to the consideration of amenity.
16. I have taken account of Policies DM15 and DM16 of the Local Plan² which relate to matters of design, amenity and the historic environment. The Framework also addresses conserving and enhancing the historic environment. Given that I have concluded that the proposal would harm amenity, I therefore conclude that the proposal would conflict with these policies.

Public Safety

17. The Council's reason for refusal refers to an excessively bright level of illumination proposed, which it considers would cause a distraction to motorists. The appeal site is part of a busy commercial area next to a road used by vehicular traffic and located in a footpath with a high pedestrian flow. The site is also in close proximity to a pedestrian crossing and a number of bus-stops.
18. 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. 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

19. The appellant refers to the benefits of the proposed Street Hub, which would be supported by revenue from the digital screens. This includes the provision of ultra-fast Wi-Fi, improved 4G and 5G coverage and wider social and economic benefits of digital connectivity. However, advertisements are subject to control only in the interests of amenity and public safety, and therefore the benefits

² Colchester Borough Local Plan Section 2, 2022

referred to cannot be taken into account in my decision. Accordingly, I attach minimal weight to these matters in determining this appeal. With regard to designated heritage assets, although the harm would be less than substantial, the minimal weight I give to the benefits arising from the proposal would not outweigh that harm.

20. I have had regard to the appeal decisions referred to by the appellant, although it has not been demonstrated that they closely reflect the circumstances of the appeal proposal, including in respect of site context. They do not therefore lead me to a different conclusion on the impact of the appeal proposal based on what I have seen and read. In any event, I have determined this appeal on its own merits.

Conclusion

21. Notwithstanding my conclusions in respect of public safety, I have concluded that the proposal would lead to significant harm to the amenity of the area. There are no other material considerations in favour of the proposal that would outweigh the significant harm I have identified. I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR