

Appeal Decisions

Site visit made on 13 August 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2024

Appeal A Ref: APP/A1530/W/23/3334156

Pavement opposite 48 Osborne Street, Colchester CO2 7DP

- 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 Public Networks Limited against the decision of Colchester City Council.
 - The application Ref is 232013.
 - The development proposed is installation of a multifunctional Communication Hub including advertisement display.
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Appeal B Ref: APP/A1530/H/23/3334157

Pavement opposite 48 Osborne Street, Colchester CO2 7DP

- 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 In Focus Public Networks Limited against the decision of Colchester City Council.
 - The application Ref is 232014.
 - The advertisement proposed is integrated into the Communication Hub unit and comprises an LCD portrait screen that will be used to show static illuminated content that is remotely changed via a secure ISDN line to the communication device.
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Decision

1. Appeal A is allowed and planning permission is granted for installation of a multifunctional Communication Hub including advertisement display at Pavement opposite 48 Osborne Street, Colchester CO2 7DP in accordance with the terms of the application, Ref 232013, and the plans submitted with it, subject to the following condition
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawings 'Unit Elevations' scale 1:25 and 'Site Plan' scale 1:200.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the application form.
2. Appeal B is allowed and express consent is granted for an advertisement integrated into the Communication Hub unit and comprises an LCD portrait screen that will be used to show static illuminated content that is remotely

changed via a secure ISDN line to the communication device as applied for. 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 the following additional conditions:

- 1) The intensity of the illumination of the advertisement permitted by this consent shall be no greater than 1000 candela.
- 2) The advertisement hereby approved shall not include any animated, moving or flashing images and each advert should be displayed for at least 10 seconds before rotation.

Preliminary Matters

3. As set out above there are two appeals on this site. One for the installation of the communication hub itself and the other for the advertisement screen which is integrated within it. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The original applicant is Mr Nathan Still (In Focus Public Networks) on the application form and the appeal was submitted by Mr Thomas Johnston (JCDecaux UK Ltd). However, the appellant has confirmed that this was in error and the appellant is In Focus Public Networks Limited with JCDecaux UK Ltd acting as their agent. Therefore, I have determined the appeal on this basis.
5. The descriptions of the proposed development and advertisement outlined above have been taken from the appeal form rather than the application form, as these provide a more accurate description of the proposal.
6. For Appeal B, the Council's concerns relate solely to amenity and no objections have been raised with regard to public safety. Although located adjacent to a road and bus station, due to the width of the pavement in which it would be located, I agree that the proposal would have no impact on the factors relevant to public safety. Additional conditions could be imposed, should consent be granted, to ensure that luminance and moving images are restricted due to the proximity to the road.

Main Issues

7. The main issue for Appeal A is the effect of the proposed development on the character and appearance of the surrounding area including the Colchester Town Centre Conservation Area No.1.
8. The main issue for Appeal B is the effect of the proposed advertisement on visual amenity.

Reasons

9. The appeal site forms part of the pavement on Osborne Street, adjacent to a multistorey car park building and a bus station. This particular section of pavement, by the exit of the adjacent car park, is relatively wide and not currently occupied by any other items of street furniture. However, there are a number of examples of street furniture in the surrounding area, including lamp posts, bus stops, seating and a digital screen displaying bus information.

10. The proposed development in Appeal A includes a fairly large rectangular communications hub providing various facilities for the public to use with an advertisement screen on the rear. Whilst large, it has a simple design and would not appear overly incongruous when viewed against the backdrop of the bus station and the existing street furniture in this location, including the existing digital display screen at the bus station, which is constructed of similar materials. Furthermore, whilst it would be a prominent addition to the streetscene, it is located on an open and spacious section of pavement, which provides sufficient space for the proposal and a single unit of simple design would not overly exacerbate visual clutter in the area. Therefore, the proposed development would not result in harm to the character and appearance of the surrounding area.
11. The proposed advertisement in Appeal B is located on the rear of the proposed communication hub and would be a large addition to the streetscene, with a prominent appearance and an illuminated screen adding to this visibility. However, as per the communication hub itself, it would be located on a section of pavement which could easily accommodate such a structure and screen and when viewed against the existing backdrop, this would not appear overly incongruous in the area. Therefore, the proposed advertisement would not harm the wider visual amenity.
12. The Council's report states that the proposal is adjacent to the Colchester Town Centre Conservation Area No.1. Although their appeal statement indicates that the appeal site is within this Conservation Area, the map provided by the Council confirms that the appeal site is adjacent to the Conservation Area and not within it. Whilst large and modern in appearance, contrary to the historic nature of the Conservation Area, the proposed development and advertisement would be well separated from this heritage asset by the road and, due to the nature of the surrounding area, viewed separately. Therefore, the proposed development and the proposed advertisement would not harm the character or appearance of this Conservation Area.
13. In relation to Appeal A, for the reasons above, the proposed development would not harm the character and appearance of the surrounding area or the adjacent Conservation Area and would not conflict with Policy SP7 of the North Essex Authorities' Shared Strategic Section 1 Plan (the Section 1 Plan) 2021 and Policies DM15 and DM16 of the Colchester Borough Local Plan 2017-2033 Section 2 (the Section 2 Plan) 2022. These policies collectively seek to ensure that all new development respects and responds positively to the character of the site to preserve the quality of existing places and their environs with development affecting the historic environment seeking to conserve and enhance the significance of the heritage asset. In this instance, the proposed development would also comply with the general design and heritage objectives of the National Planning Policy Framework.
14. In relation to Appeal B, as the proposed advertisement would not harm visual amenity, it would not conflict with paragraph 141 of the National Planning Policy Framework or The Town and Country (Control of Advertisements) (England) Regulations 2007 (as amended) which states that advertisements should be subject to control in the interests of amenity and public safety. I have taken into account Policy SP7 of the Section 1 Plan and

Policies DM15 and DM16 of the Section 2 Plan which seek to protect amenity and so are material in this case. Given I have concluded that the proposed advertisement would not harm amenity, the proposal does not conflict with these policies.

Other Matters

15. The Council makes reference to two previous appeal decisions¹ in close proximity to the appeal site, where it was found that the proposal would harm visual amenity. These have not been provided in full, however, from the inserts provided by the Council, this was in an area where, unlike the appeal site, there was no similar development in the area. It was also found to have an impact on the setting of a nearby listed building, which is not the case in this instance. Therefore, these appeal decisions are not relevant to the appeal before me.
16. Third party representations contend that the proposed development and advertisement are unnecessary, that no evidence has been provided of a local need and that similar facilities are already available nearby. However, the need for the proposal is not a matter relevant to my consideration of either appeal. Therefore, these concerns have no bearing on my overall conclusion.
17. Comments from the Highways Authority, in relation to the ownership of the land and the necessary license required to carry out such works, are noted. However, these are also not matters which are relevant to the appeal before me.

Conditions

18. For Appeal A, in addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision. Furthermore, a condition has been included requiring details of all external facing materials to be in accordance with those detailed within the application form, to ensure an appropriate appearance for the development.
19. For Appeal B, along with the five standard conditions set out in the Regulation, I have also imposed two additional conditions, as requested by the Council, to restrict luminance and to restrict any animated, moving or flashing images to ensure that the advertisement does not have a harmful impact on visual amenity or public safety.

Conclusion

20. For the reasons given above, both Appeal A and Appeal B should be allowed.

E Grierson

INSPECTOR

¹ APP/A1530/Z/22/3313699 and APP/A1530/W/22/3313696

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/A1530/W/23/3334156	In Focus Public Networks Limited
Appeal B	APP/A1530/H/23/3334157	In Focus Public Networks Limited