

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/23/3334150

Pavement opposite 33 High Street, Colchester CO1 1DH

- 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 232019.
 - The development proposed is installation of a multifunctional communication Hub including advertisement display.
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Appeal B Ref: APP/A1530/H/23/3334151

Pavement opposite 33 High Street, Colchester CO1 1DH

- 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 232020.
 - 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 and Appeal B are dismissed.

Preliminary Matters

2. 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.
3. 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.

4. 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.

Main Issues

5. The main issues for Appeal A are:

- the effect of the proposed development on the character and appearance of the surrounding area, the setting of nearby listed buildings and whether it would preserve or enhance the character or appearance of the Colchester Conservation Area 1; and
- the effect of the proposed development on highway safety.

6. The main issues for Appeal B are:

- the effect of the proposed advertisement on visual amenity; and
- the effect of the proposed advertisement on public safety.

Reasons

Character and Appearance/Visual Amenity

7. The appeal site forms part of the pavement on High Street, adjacent to a supermarket. I saw during my site visit that the site is currently occupied by a memorial statue and plaque on the pavement. However, from the evidence submitted, this appears to be a fairly recent addition to the area, which has not been raised by either party. However, the statue is not overly large and does not cover a significant section of the pavement and the plaque is set within the ground. There are some other items of street furniture within the immediate vicinity, such as lampposts, dustbins and bicycle storage, but these are minimal in scale and blend well into the streetscape. Therefore, this busy section of pavement still provides a relatively clear footway for pedestrians and its open and uncluttered nature makes a positive contribution to the character and appearance of the streetscene.
8. 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 the design of the hub is modern and simplistic with a narrow profile, in this location, its significant height and overall scale would appear as an overly prominent and incongruous addition to the area. Whilst the buildings on either side of the road are significant in height, the space in between, occupied by the road and footpaths, is open and spacious with only the aforementioned statue and a minimal amount of street furniture in the immediate area. Therefore, the proposed development would be a dominant feature within the streetscene, adding to the visual clutter, to the detriment of the character and appearance of the area.
9. The proposed advertisement in Appeal B is located on the rear of the communications hub and would be a large addition to the streetscene, with a prominent appearance and an illuminated screen adding to this visibility. Whilst advertising screens of this size may be commonplace in urban city centre locations such as this one, there is no similar features in the area immediately surrounding the appeal site, with this particular section of High

Street having a fairly traditional feel with limited examples of modern digital advertisements. Therefore, the proposed advertisement screen would appear as an incongruous addition and would dominate the streetscape to the detriment of visual amenity.

10. As demonstrated on a map provided by the Council, the appeal site is also located within the Colchester Conservation Area 1, a designated heritage asset. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Although limited information has been provided, from my observations on site it would appear that the significance of the Conservation Area relates to its historic nature and the close-knit, urban nature of development. The appeal site forms part of one of the main commercial streets within the Conservation Area and forms part of the historic environment and urban nature of the area. Its prominent location, adjacent to the road, and its open and uncluttered nature makes a positive contribution to the significance of the Conservation Area.
11. As outlined above, the proposed development and the proposed advertisement in appeals A and B would be dominant additions to the streetscene due to their scale and prominence along with the current uncluttered nature of the pavement in this location. The presence of the proposal would result in visual clutter within the area and would erode the current open nature of this section of the pavement to the detriment of the character and the appearance of the Conservation Area as a whole.
12. The Council have highlighted a number of listed buildings in close proximity to the appeal site. These listed buildings include 28-30, 126, 135 and 136 High Street, Colchester Town Hall, the columns and street lighting to the right and left of the entrance to the Town Hall and the Former Hippodrome Theatre. Limited information has been submitted regarding these neighbouring buildings. However, it appears that their significance is derived, at least in part, from the antiquity of their structures and from their status as well-preserved examples of vernacular buildings and structures of their age and type. Their historic setting on High Street and within the Colchester Conservation Area 1 contributes to how these assets are appreciated and this setting makes a positive contribution to the significance of these listed buildings.
13. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for the development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest. Whilst the appeal site is in relatively close proximity to these buildings, the proposal would not obscure any key views of these buildings or significantly alter their historic setting. Whilst these listed buildings contribute to the setting of the Conservation Area as a whole, they are well separated from the appeal proposal. As such, the proposed development would not detract from their individual setting. Therefore, whilst it has been found that the proposal would result in harm to the character and appearance of the Conservation Area as a

whole, it would have a neutral impact on the setting and significance of these individual listed buildings.

14. The Council also cite harm to locally listed buildings 31, 31a, 32, 35-37, 38-39 and 136-137 High Street. However, these are also well separated from the appeal site and therefore the proposal would not impact the setting of these buildings.
15. Nevertheless, for Appeal A, whilst the proposal would not harm the setting of the nearby listed buildings, it would not preserve the character and appearance of the Colchester Conservation Area 1 and would harm the overall character and appearance of the surrounding area. Therefore, it would 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. The proposal, in this location, would also conflict with the general design objectives of the National Planning Policy Framework.
16. In relation to Appeal B, the proposed advertisement would harm visual amenity and would therefore conflict with paragraph 141 of the National Planning Policy Framework and 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 harm amenity, the proposal would also conflict with these policies as outlined above.
17. Due to the scale of the proposal, having regard to the Framework, the harm to the significance of the Colchester Town Conservation Area 1 is less than substantial. The Framework requires, where there would be less than substantial harm, for it to be balanced against the public benefits of the scheme.
18. The proposal provides a modern version of a traditional telephone box, which the appellant considers contributes to the vitality and vibrancy of the city centre. This includes various public uses including access to a wireless network, USB and wireless device charging, a phone handset, an emergency call button and an interactive screen providing various features such as wayfinding, a live feed and transport service updates. The hub also includes the provision of a publicly accessible defibrillator and community messaging on the advertisement screen in association with local councils, the police and charities. The appellant has also outlined that the hub would be powered by green energy with the screens lit using solar power and is therefore a sustainable addition to the streetscene.
19. Whilst these would undoubtedly be public benefits from the proposal, due to the scale of the scheme as a single communication hub, these benefits would be minimal and therefore are given limited weight. For this reason, the public

benefits of the scheme would not outweigh the less than substantial harm to the heritage asset previously identified.

Highway Safety/Public Safety

20. The proposed communications hub and integrated advertisement screen would occupy part of the pavement in this location where there currently is minimal obstruction and where the pavement is relatively narrow due to the provision of bicycle parking alongside the road. The plans demonstrate that the proposal would be offset from the boundary with the road by 700mm and would leave an unobstructed footpath of 3200mm between the hub and the adjacent building.
21. Whilst some space would remain, the proposal would take up a considerably larger amount of the existing pavement than the existing statue and other existing street furniture, which would reduce its overall width and the space accessible to pedestrians. The resultant passageway would be relatively narrow for the area and would restrict the free flow of pedestrians, particularly in this busy High Street location. Although this would affect all users of the footway, the reduction in space would be particularly detrimental to those with limited mobility who require the use of a wheelchair or those with pushchairs, who may be unable to negotiate the footway safely during busy periods due to the volume of people and lack of necessary space.
22. This could result in pedestrians dangerously stepping out onto this busy stretch of road, where speed limits may be limited but which still has a fairly high volume of traffic, particularly due to the proximity of several bus stops on the opposite side of the road. Subsequently, as the resultant footway would be impeded by the proposed development and advertisement, it would significantly harm safe pedestrian movement to the detriment of highway and public safety.
23. Therefore, for the reasons above, the proposed development in Appeal A would harm highway safety and would conflict with Policies DM15, DM20 and DM21 of the Section 2 Plan. These policies seek to ensure that development proposals create a safe environment, safeguard existing routes for walking and maintains the right and safe passage of all highway users including accessibility for those with impaired mobility. It would also conflict with paragraph 115 of the National Planning Policy Framework, which states that development should only be prevented on highways grounds if there would be an unacceptable impact on highway safety.
24. In relation to Appeal B, the proposed advertisement would harm public safety and would therefore conflict with paragraph 141 of the National Planning Policy Framework and 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 Policies DM15, DM20 and DM21 of the Section 2 Plan which seek to protect public safety and so are material in this case. Given that I have concluded that the proposed advertisement would harm public safety, the proposal would also conflict with these policies as outlined above.

Other Matters

25. The appellant has indicated that the National Planning Policy Framework supports the roll out of digital infrastructure and that data from recently installed hubs in other city centre locations show that there is an appetite for their use. However, whilst the principle of the development may be supported by national policy this would not outweigh the harm that I have identified. Furthermore, the need for the advertisement is not a matter for my consideration in this appeal.

Conclusion

26. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that Appeal A and Appeal B should be dismissed.

E Grierson

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/A1530/W/23/3334150	In Focus Public Networks Limited
Appeal B	APP/A1530/H/23/3334151	In Focus Public Networks Limited