

Appeal Decisions

Site visit made on 13 September 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Appeal A: APP/W1525/H/23/3333313

Pavement outside 48 High Street, Chelmsford CM1 1DE

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr Nathan Still of Infocus Public Networks against the decision of Chelmsford City Council.
 - The application reference is 23/01427/ADV.
 - The advertisement proposed is described as 'installation of multifunctional communication hub with integral defibrillator and the display of an advertisement.'
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Appeal B: APP/W1525/W/23/3333314

Pavement outside 48 High Street, Chelmsford CM1 1DE

- 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 Mr Nathan Still of Infocus Public Networks against the decision of Chelmsford City Council.
 - The application reference is 23/01426/FUL.
 - The development proposed is the installation of a multifunctional communication hub with integral defibrillator and the display of an advertisement.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above, there are two appeals on this site. One seeks planning permission for a communications hub, which among other things would display an advertisement. The other appeal seeks express consent to display the advertisement. I have considered each appeal on its individual merits; however, the communication hub and advertisement are inextricably linked. In the interests of conciseness and to avoid unnecessary duplication I have dealt with the two appeals together.
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4. As Appeal A relates to a refusal to grant express consent for advertisements, I have had regard to Section 3(1) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations). This limits my considerations to those relating to amenity and public safety. Section 3(2) of the Regulations confirms that factors relevant to amenity include the presence of any feature of historic, architectural, cultural or similar interest. Regard does not need to be had to the development plan. I have taken relevant policies into account as a material consideration. However, they have not, by themselves, been determinative for Appeal A.
5. The Council raises no concerns in relation to public safety. Based on the evidence before me and my site visit, I see no reason to take a different view.
6. As the appeal site lies within a Conservation Area (CA) and falls within the setting of a number of listed buildings, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
7. I have taken account of the recently published consultation draft on the National Planning Policy Framework. Given its current status, it carries very limited weight. In relation to these appeals, I am satisfied that the consultation draft does not fundamentally affect the substance of the matters under appeal. As a result, I have not sought further comments from the parties on this matter.

Main Issue

8. The main issue is the effect of the proposal on the character and appearance/amenity of the area.

Reasons

Character and appearance/amenity

9. The proposal seeks to provide a communication hub, which would contain among other things a defibrillator and digital advertisement. The proposal would be sited towards the end of the High Street and occupy a relatively central position within a busy pedestrianised thoroughfare. The area is characterised by buildings of varying architectural styles and periods, including modern and historic buildings. Street furniture is present in the locality, including bollards, bins, benches, a phone box and a telecommunication cabinet. There is a double sided digital travel information board, which displays advertisements a short distance away from the appeal site.
10. The appeal site is located close to 'Stone Bridge', which is a Scheduled Monument and Grade II listed building (Ref: 1328768). 'Stone Bridge' was built in 1787, it has a segmented stone arch and stone balustrades, with round, bulbous columns. 'Stone Bridge' provides a focal point and a landmark at one end of the High Street. Insofar as is relevant to these appeals, 'Stone Bridge' derives much of its special interest from its architectural design, use of high quality materials and the contribution it makes to the public realm.

11. On the opposite side of the river, is 'Regent Theatre', which was built in the early 20th century and is Grade II listed (Ref: 1237377). Regent Theatre is two storeys high and built in the Rococo style. Its front elevation contains a wide, recessed balcony, with balustrade and flanking rusticated bays with composite pilasters. Based on my site visit and the evidence before me, I find that the listed building's special interest insofar as is relevant to these appeals is derived from its high quality 20th century architecture and grand style. The building's architectural detailing, including its recessed balcony and other decorative features make important contributions in these regards.
12. To the north of the appeal site is '56 and 57, High Street', which is a Grade II listed building (Ref: 1141334). It is two storeys high, with attic accommodation. The adjoining building at '58 and 59, High Street' (Ref: 132877) is also Grade II listed. It is three storeys high and has a parapet and dentil brick cornice. Both buildings date back to the 18th century. Based on my site visit and the evidence before me, I find that the special interest of these buildings insofar as is relevant to these appeals is derived from their high quality 18th century architecture and use of traditional materials.
13. The appeal site lies within the Chelmsford Central CA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a CA. This statutory duty applies to advertisement appeals insofar as it relates to the consideration of 'amenity'. The significance of the CA insofar as it relates to these appeals is derived from its distinctive Y shaped street pattern, relationship with the river and presence of traditional buildings and historic marketplaces, which signify the city's evolution as a retail centre. The open and relatively unobstructed nature of the public realm currently makes a positive contribution to the character and appearance of the CA.
14. 222-226 Moulsham Street and 1-5 Moulsham Street, which are sited adjacent to 'Stone Bridge' are included on the Council's Register of Buildings of Local Value. The Council refers to these buildings as non-designated heritage assets. Nevertheless, these buildings lie within a CA, which is a designated heritage asset. These buildings comprise high quality architecture and are prominent buildings within the public realm and CA and contribute towards the architectural and historic interest of the area.
15. Given the appeal site's relationship and proximity to other modern buildings and advertisements, including digital and illuminated advertisements, I do not find that the proposal would appear incongruous in this town centre location. Ample space would also remain either side of the proposal for pedestrians to walk. However, as a result of the proposal's height and width, it would appear as a bulky freestanding structure in views along the streetscape and in combination with the other advertisements and street furniture in the locality, it would result in visual clutter, which would detract from the relatively open public realm and the amenity of the area.
16. At present there are unobstructed views from the appeal site towards 'Stone Bridge' and the historic environment surrounding the river. The proposal would interrupt and partially obscure views along the end of the High Street towards 'Stone Bridge' and 'Regent Theatre'. As a result, the proposal would

detract from the historic environment and fail to preserve the character and appearance of the CA, in which the site forms part.

17. Given the distance, curvature in the road and the intervening street furniture, including another large, digital advertisement/traffic information panel, I do not find that the proposal would harm the special interest of '56 and 57, High Street', and '58 and 59, High Street'.
18. The appellant has drawn my attention to an appeal that was allowed for a communication hub, with defibrillator and advertisement on the pavement outside 81 High Street, Chelmsford¹. Based on the evidence before me, it appears that the allowed scheme was sited in a less prominent position, towards the edge of the public realm, rather than in a central location, as is the case with the current appeal scheme. The relationship of the current appeal scheme with designated heritage assets, including a Scheduled Monument is also materially different to the allowed scheme. I therefore give the allowed scheme limited weight in my decision.
19. The proposal would unacceptably detract from the public realm and historic townscape and fail to preserve the setting of 'Stone Bridge', 'Regent Theatre' and the character and appearance of the CA. I give this harm considerable importance and weight in the balance of these appeals.

Heritage Balance

20. Paragraph 205 of the National Planning Policy Framework 2023 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 advises that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should require clear and convincing justification. Given the nature and extent of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
21. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.
22. Paragraph 118 of the Framework states that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. The Framework also seeks to support the expansion of electronic communications networks.
23. In respect to Appeal A, the Regulations require that I exercise my powers with regards to amenity and public safety only. The proposed benefits therefore cannot be taken into consideration in my decision for Appeal A.
24. For Appeal B, I note the benefits of the proposed development, including in terms of communications, its environmental credentials and the provision of a defibrillator. However, the Council advises that there are already publicly accessible defibrillators in the locality. There is also a phone box and digital

¹ Appeal refs: APP/W1525/W/24/3338617 & APP/W1525/Z/24/3338620

sign, a short distance away from the appeal site, which displays advertisements and travel information. Furthermore, there is no appropriate mechanism before me to secure the use of the advertisement for community or Council related communications.

25. Overall, there would be limited public benefits from the proposal. Consequently, in attributing considerable importance and weight to the identified harm to the significance of the designated heritage assets, I find that there would be insufficient public benefits arising from the proposal to outweigh this harm.
26. Given the above, I conclude that, on balance, the proposal would fail to preserve the setting of the designated heritage assets and the character and appearance of the CA. The proposal would fail to satisfy the requirements of the Act and the historic environment protection policies of the Framework. The proposal would conflict with Policies DM13, DM23 and SPS3 of the Chelmsford Local Plan May 2020 (the Local Plan), which requires that development within the setting of a listed building does not adversely affect the significance of the listed building, including views to and from the building or the townscape character; that development preserves or enhances the character or appearance of a CA; that proposals protect Scheduled Monuments and their settings; conserve and where appropriate enhance the historic environment and that proposals respect the character and appearance of the area in which it is located.
27. As 222-226 Moulsham Street and 1-5 Moulsham Street lie within the CA (which is a designated heritage asset), I do not find that Policy DM14 of the Local Plan, which refers to non-designated heritage assets is applicable to these appeals.

Other Matters

28. I have had regard to the standard conditions set out in Schedule 2 of the Regulations. I have also considered the conditions proposed by the appellant. Nevertheless, the proposed conditions would not overcome the harm that I have identified to amenity and public safety.

Conclusion

29. For the reasons given above, and taking into account all matters raised, both Appeals A and B are dismissed.

A James

INSPECTOR