

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/23/3333300

27 Duke Street, Chelmsford, Essex CM1 1HT

- 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 Ref is 23/01398/ADV.
 - The advertisement proposed is described as 'the installation of a multifunctional communication hub with integral defibrillator and the display of an advertisement.'
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Appeal B: APP/W1525/H/23/3333301

27 Duke Street, Chelmsford, Essex CM1 1HT

- 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 23/01397/FUL.
 - The development proposed is described as '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 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.

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. As the appeal site lies within a Conservation Area (CA) and there are nearby 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).
6. 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 Issues

7. The main issues for both appeals are the effect of the proposal on the character and appearance/amenity of the area; and, highway (public) safety.

Reasons

Character and appearance/amenity

8. The proposal seeks to provide a communication hub, which would contain among other things a defibrillator and digital advertisement. The proposal would be sited on a wide pavement, outside a retail store. It would be located close to a pedestrian crossing, bus stops and a train station. In addition to the bus stops, there is a variety of street furniture in the locality, including road signs, bins, streetlights and a wayfinding board.
9. Opposite the site is a Grade II listed building, known as the 'Law Library' (Ref: 1328745). The 'Law Library' dates back to the early 19th century and is constructed of grey gault brick. It was originally built as a meeting house and is of a classical style. The front elevation contains a pedimented gable and circular window. It has an ionic porch with 4 columns and arched recesses. Insofar as is relevant to these appeals, the 'Law Library' derives much of its special interest from its historic, community and architectural importance as a high-quality example of an early 19th century meeting house. The building's classical design and use of traditional materials contribute towards its special interest.
10. The appeal site lies within the West End Conservation Area. Section 72(1) of 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 medieval street pattern, historic architecture and mix of uses, including community and civic. The public realm, including the wide pavements contribute to the significance of the CA.

11. The proposal by reason of its height and width would appear as a bulky freestanding structure in views along the street scape. While there is a mix of historic and modern architecture in the locality, digitally illuminated advertisements are not a prominent feature in the area. The proposal by reason of its use of modern materials, black colour and illuminated screen would be incongruous with the surrounding historic environment, including the 'Law Library', which is sited on the opposite side of the road. In combination with the other street furniture in the locality, it would result in visual clutter, which would detract from the amenity of the area.
12. I appreciate that the proposed advertisement would be fitted with a light sensor, so not to appear overly bright and it would power off between midnight and 6am. However, I find that The prominence of the proposal would be further accentuated by the illuminated and digital changing imagery.
13. The appellant has drawn my attention to appeals that have been allowed on 'land at the pavement outside number 81 High Street, Chelmsford'¹ for a communication hub, which included a defibrillator and advertisement. The High Street has a far greater variety of illuminated advertisements and a very different character to the appeal site before me. The allowed appeals are therefore materially different to the current appeal scheme and I give them limited weight in my decision.
14. For the reasons given above, I find that the proposal would be unduly harmful to the character and appearance/amenity of the area. Furthermore, it would fail to preserve the setting of the 'Law Library', which is a Grade II listed building and would harm the character and appearance of the CA.

Highway (public) safety

15. The appeal site lies within a busy urban area, close to a variety of uses, including a train station, retail, civic and commercial premises. There is a high level of pedestrian, cycle and vehicular activity in the locality. The site lies close to a mini roundabout, pedestrian crossing and bus stops.
16. The pavement is reasonably wide and already accommodates other street furniture including bus stops and a wayfinding totem, without unacceptably reducing the space available for pedestrians. The proposal would not unacceptably narrow the pavement or effect the free flow of pedestrians, including vulnerable and wheelchair users.
17. While the proposal would be set in from the kerb, it would be close to the edge of the pavement and would impede visibility in a westerly direction as pedestrians approach the crossing. Given the height and width of the proposal, pedestrians standing or walking behind it would be momentarily obscured from view by motorists or cyclists travelling in an easterly direction

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

from the station, which would give limited time for motorists or cyclists to respond as the pedestrian emerges to cross the road.

18. The proposed advertisement would face towards the pedestrian crossing and would change approximately every 10 seconds. I appreciate that the proposal would be located on the opposite side of the road to oncoming traffic and on part of the highway restricted to bus, taxis, motorcycle and cycles. However, given the proximity of the site to the pedestrian crossing and mini roundabout, the proposal by reason of its illuminated, changing imagery would pose an unacceptable risk for drivers, cyclists and pedestrians being distracted at a critical moment.
19. I appreciate that the appeal site lies in a location where other advertisements and shopfronts are visible in the public realm, However, there are no other digitally, illuminated signs in the locality that I noted of the same prominence.
20. For the reasons given above, I conclude that the proposal would result in harm to highway and public safety. The proposal would conflict with Sections 8 and 9 of the Framework, which seek to promote healthy and safe communities and not have an unacceptable impact on highway safety.

Heritage balance

21. 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.
22. 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.
23. 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.
24. 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.
25. For Appeal B, I note the public benefits of the proposal, including in terms of communications, its environmental credentials and the provision of a defibrillator. However, the Council advises that there are publicly available defibrillators in the locality and I observed a freestanding wayfinding sign a short distance away from the appeal site. I appreciate that the proposal provides a variety of public services. However, a number of the services offered by the proposal are already available in the locality. There is no

appropriate mechanism before me to secure the use of the advertisement for community or Council related communications.

26. 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.
27. Given the above, I conclude that, on balance, the proposal would fail to preserve the setting of the listed building 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. Insofar as is relevant, 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 conserve and where appropriate enhance the historic environment and that proposals respect the character and appearance of the area in which it is located.
28. The Council has not identified any non-designated heritage assets that would be affected by the appeal proposal in their submission. As a result, I do not find that Policy DM14 of the Local Plan is applicable to these appeals.

Other Matters

29. 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

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

A James

INSPECTOR