



Appeal Decision

Site visit made on 20 June 2025

by **G Sylvester BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th July 2025

Appeal Ref: APP/W1525/W/25/3360789

18-20 Mildmay Road, Chelmsford, Essex CM2 0DX

- 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 James Eagle against the decision of Chelmsford City Council.
 - The application Ref is 24/00706/FUL
 - The development proposed is the demolition of existing single-storey vacant commercial premises and erection of a new three-storey building for mixed use (commercial and residential).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In determining this appeal, I have had regard to my duty under Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 ("the LBCA") to pay special attention, and have regard to, the desirability of preserving the settings of listed buildings, and to my duty under Section 72(1) of the LBCA, to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposal on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Moulsham Street Conservation Area ("the CA").
 - Whether the appeal proposal would preserve the setting of the Grade II listed building known as Marconi's First Radio Factory ("the Marconi Building").
 - Whether adequate living conditions for future occupants of the proposed residential units would be provided, with particular regard to outlook from the home offices.
 - The effect of the proposed development on the living conditions of the occupiers of Numbers 8-13 Alfred Mews with particular regard to privacy, and noise and disturbance.

Reasons

Character and appearance, the CA and the listed Marconi building.

4. The CA encompasses a large part of Moulsham Street and adjoining roads, which has the character of a traditional commercial shopping street and is fronted by a

generally tight knit pattern of mostly 2 storey buildings of traditional designs and architectural detailing. The appeal site is located close to the edge of the late 1980's extension to the CA, and amongst some comparatively larger buildings. These consist of traditional and modern buildings, including the Grade II listed Marconi building, and a small number of buildings that are acknowledged by the CA appraisal¹ to detract from the CA, including the existing appeal site building.

5. The character and appearance of the CA as a whole, insofar as relevant to this appeal, is partly derived from the high proportion of traditional period style buildings within the CA, including the Marconi Building, and their relationship with the road network and its clear hierarchy. Together they contribute to a predominantly traditional townscape across the CA, which reflects the evolution of the area, including its industrial heritage and the expansion of Chelmsford.
6. The special interest and significance of the Marconi building, insofar as it relates to this appeal, is derived in part from its attractive classical architecture and its historical functional role as the world's first wireless factory. The largest contribution of the building's setting to its significance is experienced from vantage points on Mildmay Road and Hall Street.
7. Views of the appeal site are primarily obtained from Mildmay Road, looking into the CA, with glimpses from other streets. It is seen flanked by the Marconi Building, and within a street scene that includes a large proportion of traditional style buildings and some relatively modern flat blocks. Whilst of different designs and proportions, those buildings have well-ordered facades with a generally simple pattern of relatively wide window apertures, that are predominantly vertically aligned. The sizes and patterns of window apertures contributes to a discernible sense of cohesion to the buildings in the street scene, and they are an important element of the area's character and appearance, including that of the CA.
8. The proposed building would be similar in height to the flanking buildings and spacings between it and those neighbouring properties to either side would be retained. However, in the context described above, the narrow proportions of the first and second floor 'arrow slit' windows in the proposed building's façade would be out of keeping with the facades of buildings in the area, including the pattern of wide windows in the flanking buildings.
9. Although vertically aligned, the incongruity of those narrow window apertures would be exacerbated by them being set at an angle to the main front wall of the building. They would also contrast awkwardly with the wider proportions and solidity of the louvred apertures serving the balconies.
10. Furthermore, a large proportion of the narrow window apertures in the flank walls of the proposed building, several of which are shown as being infilled with glass blocks and fitted with louvres, would not be vertically aligned. This arrangement would give the side elevations of the proposed building a discordant appearance, particularly as many of them would only be misaligned from the aperture either above or below it, by a modest distance.
11. The vertical alignment of the kitchen/lounge windows in the north elevation and the balconies in the south elevation, which would relate to those visible at Alfred Mews, would not overcome the poorly resolved appearances of those elevations.

¹ Moulsham Street Conservation Area Appraisal 2007

12. For these reasons, the proportions and composition of the window apertures in the front and side elevations of the appeal building, whether glazed or fitted with glass blocks or louvres, would give the building a discordant and poorly resolved appearance, that would be jarringly out of keeping with the street scene, and would fail to preserve or enhance the character or appearance of the CA.
13. The proposed building's scale, form and resultant partial screening of the Marconi building's white painted side elevation would not be harmful to its special interest or significance as that elevation contributes modestly to its architectural significance. However, the appearance of its façade would, for the reasons given above, contrast jarringly with the sizes and pattern of windows in the Marconi Building. This would detract from how that building is experienced within its context, causing a small degree of harm to its setting and significance.
14. As a generality, narrow windows can be found on industrial buildings and parts of the CA have industrial origins. Whilst the Marconi Building and the buildings at Alfred Mews have existing 'arrow slit' windows, they are set predominantly within side elevations of secondary importance, complementing the wider windows in their front and rear walls. Furthermore, those at Alfred Mews would barely be visible in the same public views as the proposed building's façade. As such, they are not comparable to the appeal proposal and of limited relevance to my considerations in this appeal.
15. The curved front corner of the proposed building's façade, the wide ground floor openings, and the use of materials in colours similar to those in the locality would not compensate for the negative effects of those windows. Although the existing building on the appeal site detracts from the character and appearance of the CA, those are established harms that would not justify the lasting harms that would be caused by the appeal proposal, thus outweighing the benefits of its demolition.
16. Based on all the above, I share the Council's view that the appeal scheme's appearance is a retrograde step by comparison to the dismissed appeal scheme². However, I have necessarily assessed the appeal scheme before me on its own merits and against the baseline position of the appeal site and its context. The support from some nearby residents does not outweigh the harms that I have identified.
17. For these reasons, proposed building's façade and side elevations would be discordant and jarringly out of keeping with the buildings in the street scene. This leads me to conclude that it would be harmful to the character and appearance of the area, and would fail to preserve the character or appearance of the CA, and would fail to preserve the setting of the Marconi Building.
18. These harms bring the proposed development into conflict with Section 66(1) and 72(1) of the LBCA, and Policies DM13 and DM23 of the Chelmsford Local Plan Adopted May 2020 ("the CLP") insofar as they require new buildings to be, amongst others, of high quality design with visually-coherent elevations, be compatible with the character and appearance of the area, preserve or enhance the character or appearance of a CA, and not adversely affect the significance of a listed building.

² APP/W1525/W/20/3253621

19. There would also be conflict with the expectations in Paragraphs 131 and 135 of the National Planning Policy Framework (“the Framework”), for development to be of good design, visually attractive, and sympathetic to local character and history, including the surrounding built environment.
20. Framework Paragraph 212 requires that great weight should be given to the conservation of designated heritage assets. In this instance the harm to the significance of those designated heritage assets would, in the language of the Framework, be ‘less than substantial’ and at the lower end of that category. This is a matter of considerable importance and weight in my decision, and it does not amount to a less than substantial objection to the proposal. Framework Paragraph 215 requires the harm to be weighed against the public benefits of the proposal, and I shall return to this matter in the planning balance.

Living conditions of future occupants

21. The proposed home offices would be generously sized with floor areas larger than the proposed bedrooms. They would contain a sizeable proportion of the total living space within each residential unit. Given the significant increase in home working in recent times, and despite not being included amongst named habitable rooms in Appendix B.4 of the CLP, those home offices are likely to be highly valued by future occupants, who would be expected to spend a considerable proportion of their time in those rooms.
22. For these reasons, I consider that the proposed home office rooms would be important rooms for future occupants. They would be likely to be ‘lived-in’ more or less as much as any other habitable rooms within the proposed residential units.
23. Views out of the proposed home offices and of the area’s outdoor environment would be heavily restricted and obscured by the infilling of the openings in the external walls by louvres and glass blocks, which are aimed at controlling views towards the flats to the north. This would result in users of the home offices being provided with a poor outlook and harmfully oppressive living conditions. There is nothing in the Framework that would exclude home offices, as a matter of principle, from the requirement in Paragraph 135 to provide a high standard of amenity for future users of a development.
24. The appellant suggests that this issue could be overcome by a different configuration of window louvres to open-up views, as indicated on a sketched drawing, or using obscure glazing below a certain level and installing roof lights. However, based on the limited information that is before me, I am unable to make any meaningful assessment of the effects of those measures and upwards views of the sky would not amount to a satisfactory outlook of the outdoor environment at the appeal site.
25. Furthermore, a combination of those measures would be likely to amount to a substantial change to the appeal proposal, requiring consultation with neighbouring occupiers who might be affected by them. Depriving interested parties with an opportunity to give their views would lead to injustice. Given the sizes of the home offices and their sizes relative to the floor space in each residential unit, I am not satisfied that it would be reasonable, in this instance, to restrict how those rooms could be occupied.

26. For these reasons I conclude on this main issue that the proposed development would provide unacceptably poor living conditions for future occupants of the residential units, with particular regard to outlook from the home offices. As such, it would be contrary to CLP Policy DM26, insofar as it requires development to achieve a suitable living environment for residential occupiers and it would be contrary to the requirements of Framework Paragraph 135, which are set out above.

Living conditions of the occupiers of Numbers 8-13 Alfred Mews

27. The Inspector found that the previous appeal scheme would cause additional overlooking of the rear gardens and rear elevations of neighbouring houses in Alfred Mews, resulting in some loss of privacy. By comparison, there are fewer first and second floor windows in the south facing elevation of the proposed building, and the bedroom windows are generally set further toward the east than the previous lounge windows, thus reducing opportunities to obtain views towards the properties on Alfred Mews. I share the Council's view that the number and positioning of those windows would avoid harmful overlooking into the rear elevations of those properties.
28. As those side facing windows are also relatively narrow, they would restrict the field of vision from out of the rooms that they serve. As such, only relatively oblique angled views towards the rear gardens of the properties at Alfred Mews could be obtained from those rooms. Together with the viewing distances involved, and in having regard to the development standards in appendix B of the CLP, I am satisfied that the proposed development would not cause the occupiers of Alfred Mews to suffer unacceptable overlooking and a harmful loss of privacy, particularly when using their gardens.
29. Background noise levels appeared commensurate with the appeal site's urban location and surroundings. There appeared to be no dispute over the noise effects in the previously dismissed appeal scheme for 4 residential flats. I am satisfied that the normal domestic activities associated with the occupation of the proposed residential units would not generate noise of a level or character that would harm the living conditions of nearby occupants. No substantive technical evidence to the contrary has been advanced by any party.
30. The findings of the appellant's technical assessment of daylight, sunlight, and overshadowing are not disputed by the Council. The Council found that the proposed development would not be overbearing or cause harmful overlooking of any other property. I have no basis to disagree with the Council's assessment of those matters. I do not regard the existing mutual overlooking between the flats to the north of the appeal site and the properties on Alfred Mews to be harmful. Therefore, the appeal proposal's obstruction of those views would be of little benefit to those occupants.
31. For these reasons, I conclude on this issue that the proposed development would not have an unacceptably harmful effect on the living conditions of the occupiers of Numbers 8-13 Alfred Mews, with particular regard to privacy, and noise and disturbance.
32. In those respects, the appeal proposal would be consistent with CLP Policy DM29 insofar as it requires development to, amongst others, safeguard the living

environment of the occupiers of any nearby residential property by ensuring that development does not result in unacceptable overlooking.

Other Matters

33. I am advised that a financial contribution has been paid to mitigate the proposal's potential adverse in-combination effects on the nature conservation interests of the Blackwater Estuary Special Protection Area. However, as I am dismissing the appeal for other reasons, I need not consider this matter further as it would not alter the outcome of the appeal. Mitigation would not amount to a benefit.
34. The appellant's Flood Risk Assessment refers to a version of Table 2 from the Planning Practice Guidance (PPG) as indicating no requirement for additional sequential testing. However, the PPG is clear that Table 2 does not show the application of the Sequential Test (ST) which should be applied first to guide development to the lowest flood risk areas. Therefore, on the evidence before me, I am unable to conclude whether the ST was undertaken properly. However, as I am dismissing the appeal for other reasons it is unnecessary for me to pursue this matter further.

Planning Balance and Conclusion

35. The proposed development would make a small contribution to the supply of housing and the delivery of a commercial unit on previously developed land within an urban location where such development types are supported by the development plan as a matter of principle. Construction and occupation of the proposed development would bring economic and social benefits to the area.
36. Devices to generate renewable energy, use water and energy resources efficiently, and encourage zero and low emission vehicle use would be installed. Together with the off-site planting of trees, funded by a payment to the Council, and mandatory biodiversity net gain, the proposed development would deliver environmental benefits.
37. In accordance with the Framework encouragement for reusing previously developed land in urban areas, the cumulative benefits of the appeal proposal carry substantial weight in its favour. However, for the reasons given above, the appeal development would not be well designed. It would harm the character appearance of the area, and the significance of both the CA and the Marconi Building as designated heritage assets. It would fail to provide acceptable living conditions for future occupants.
38. The Framework is clear that good design is a key aspect of sustainable development, and creating high quality places is a fundamental to what the planning process should achieve. Development not well designed should be refused. Harm to designated heritage assets, which are irreplaceable, is a matter of considerable importance, and great weight should be given to their conservation. Development should provide a high standard of amenity for future users. The appeal proposal's harms mean that it would not meet those policy expectations.
39. Taken together, those harms carry substantial weight against the appeal proposal, and they result in policy conflicts that bring it into conflict with the development plan as a whole. The conflict with the development plan is determinative in this

instance and it carries substantial weight against the appeal proposal, sufficient to outweigh its benefits.

40. I therefore conclude that the proposed development conflicts with the development plan as a whole. The material considerations, including the provisions of the Framework, do not indicate that the appeal should be decided other than in accordance with the development plan. The appeal should be dismissed.

G Sylvester

INSPECTOR