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## Appeal Decision

Site visit made on 29 July 2025

by **L Gardner MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8<sup>th</sup> August 2025

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**Appeal Ref: APP/W1525/W/25/3365784**

**13A Moulsham Street, Chelmsford, Essex CM2 0HU**

- 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 Nasrullah Raja of Chelmsford Muslim Society against the decision of Chelmsford City Council.
  - The application Ref is 25/00077/FUL.
  - The development is described as 'retrospective planning application for the replacement of windows from timber sash to uPVC at 13A Moulsham Street'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. During my site visit, I observed that development has already taken place. However, I noted that changes have taken place to the shopfront which are not reflected on the submitted plans. For the avoidance of doubt, I have assessed the appeal development based on the plans before me, and against which the Council made its decision.
3. The appeal property is situated within the Baddow Road and River Can Conservation Area (CA) and near to 216 Moulsham Street, which is a Grade II listed building. Accordingly, I have applied the duties set out in Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which require me to have special regard to the desirability of preserving the setting of the listed building and to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
4. Whilst the Council acknowledged the presence of the listed building within its statement, no assessment of the effect of the development on the setting of the listed building was provided. The main parties were therefore given the opportunity to comment on this during the appeal process. I have had regard to the comments received throughout my reasoning.
5. The appellant makes various references to the site being within the Moulsham Street CA. This is the adjacent CA on the opposite side of Parkway. The evidence before me is clear that the site falls within the Baddow Road and River Can CA and it is on this basis that I have assessed the appeal.

### Main Issue

6. The main issue is the effect of the development on the character and appearance of the host building, and whether the development preserves or enhances the

character or appearance of the Baddow Road and River Can CA, and preserves the setting of the listed building at 216 Moulsham Street.

## Reasons

7. The appeal site is within the Baddow Road and River Can CA which is one of several conservation areas within and around Chelmsford city centre. The extent of the CA is modest, forming development blocks bordered by the River Can to the north, and interspersed by vehicular and pedestrianised streets. The area is defined predominantly by commercial uses, with ground floor units being prevalent, served by busy footfall. The appeal building itself fronts onto an underpass, close to the edge of the CA, which facilitates pedestrian movement underneath the busy Parkway, leading into the adjacent Moulsham Street CA.
8. The built environment within the Baddow Road and River Can CA is diverse, featuring numerous historical buildings as well as more recent development from the 20<sup>th</sup> Century onwards. Although the area is not exclusively defined by timber windows, such windows are a notable and distinctive feature of many of the older buildings in the CA. As such they contribute positively to the significance of this designated heritage asset.
9. Although not immediately adjacent to the appeal site, the listed building at 216 Moulsham Street fronts onto the same pedestrianised area and is therefore visually and spatially related to the appeal site. No 216 Moulsham Street forms a two-storey building with attic level featuring flat roof dormers. The first floor windows are vertical sliding timber casements with slim glazing bars. The listed building's special interest is derived in part from its age and location within the city's commercial core with its various historic buildings, of which No 216 is one. The appeal building falls within the setting of the listed building.
10. Despite its relatively recent construction (early 1990s), the distinctive brickwork and Dutch gable with a curved profile give the appeal building a characterful appearance which harmonises with its historical surrounding context. The height of the building, above the adjacent neighbouring buildings increases its prominence in the street scene. Prior to the development taking place, the windows within the building formed vertical sliding timber sashes with narrow glazing bars.
11. The window frames now in situ are top hung casements of a white uPVC material. Despite the windows being installed within the same positionings, the change in material and design represent a stark contrast when compared to the more traditional frames within the area. The top hung casements have wide and bulky frame profiles which are significantly different in appearance to the slender proportions of the timber sash windows which they have replaced.
12. The appellant has provided examples of windows within other buildings within the surrounding area which feature various materials including uPVC. Whilst I do not know the status of these with respect to planning permission, and some of the examples given are within the adjacent CA, I acknowledge that the surrounding area does not exclusively feature timber windows. The presence of varying window materials is established within the character of the area, including within the Baddow Road and River Can CA.
13. Nos 23-27 Moulsham Street have a similar prominent position on the opposite side of Parkway also adjacent to a pedestrianised underpass. However, I observed

during my site visit that the window frames within this building have much more slender proportions than the appeal site. Whilst the windows at 210 Moulsham Street have similar frame profiles to the appeal building, the building itself is of a much lower height which reduces its overall prominence.

14. The windows within the building known as Central House Apartments are close to the appeal site within an even taller building immediately adjacent to Parkway. Nevertheless, this building holds lesser prominence from a pedestrian perspective. It is also readily interpreted as a standalone modern development unlike the appeal site, which despite its age has synergy with historic development which surrounds it.
15. The adjacent building to the appeal site, 15 Moulsham Street, features uPVC windows on the side elevation which are also top hung. However, these are at ground floor height and do not hold the same level of prominence as the windows within the appeal site. It is also notable that the shopfront to this building, facing towards Parkway, retains a timber finish. The final example provided is 6-14 Parkway. However, as the appellant states, this represents a row of shops with apartments above which stand out for its contemporary style. Based on all of these factors, none of the examples given are directly comparable to the appeal development to a degree that they justify the development before me.
16. The development detracts from the style and appearance of the building and consequently fails to preserve or enhance the character or appearance of the CA. It also harms the significance of 216 Moulsham Street as a listed building and designated heritage asset, through development within its setting. The loss of significance is readily appreciated due to the prominent position and height of the appeal building, which gives it a strong visual presence in the public realm.
17. The appeal development is therefore contrary to Policy DM13 of the Chelmsford Local Plan (CLP) (2020). This policy states that the design of development should preserve or enhance the character or appearance of the conservation area, use building materials and finishes that are appropriate to the local context and retain features that contribute to the character of the area. The policy also seeks to ensure that development within the setting of a listed building does not adversely affect the significance of that listed building. There is also conflict with CLP Policy DM23 insofar as it seeks to ensure that alterations to existing buildings are compatible with the character and appearance of the host building and the wider area.

### **Other Matters**

18. The appellant states that they were unaware that the development required planning permission and that to replace the windows again would impose a substantial financial burden to the charitable organisation which operates from the building. Whilst I have some sympathy with this position, these are not matters which I can consider under a Section 78 planning appeal and they do not alter my findings, in which I have had regard solely to the planning merits of the development.
19. The appellant also contends that the development does not include changes to boundaries or layouts and therefore does not impose harm to neighbouring living conditions through overlooking or overshadowing. There is also no harmful effect

through emissions, noise or pollutants. Nevertheless, the absence of harm in these respects weighs neutrally in the planning balance.

20. The appeal site is currently in use as a mosque. I have therefore had due regard to Articles 1 and 8 of the Human Rights Act 1998 and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Religion is a relevant protected characteristic to which the PSED applies. These rights are engaged in reaching my decision. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
21. I acknowledge that the development could improve the energy efficiency of the building which may in turn lead to a more comfortable internal environment for users. Nevertheless, this could equally be achieved through alternative means, including replacement windows of a more sympathetic material and design, and therefore these circumstances do not provide a strong justification for setting aside national and local policies or the statutory duties set within the Act. It is therefore proportionate and necessary in the public interest to dismiss the appeal.

### **Planning Balance and Conclusion**

22. Taking all of the above into account, I find the harm to the CA and the setting of the listed building to be at the lower end of less than substantial, but nevertheless of considerable importance and weight. Paragraph 215 of the National Planning Policy Framework (the Framework) states that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the development.
23. The appellant has referred to the poor condition of the previous windows and that the replacements were selected partially based on their enhanced energy performance which as above, could provide improved comfort and functionality of the space for worshippers and community uses. It is suggested that the replacements require reduced maintenance which in turn leads to improvements to the sustainability of the building and its function as a building which supports the local community.
24. Whilst these represent public benefits, they are limited in extent and do not outweigh the harm which I have found to the character and appearance of the CA and the setting of the nearby listed building.
25. I therefore conclude that the development fails to satisfy the requirements of the Act, paragraph 215 of the Framework, and it is not in accordance with the development plan, when read as a whole. Material considerations do not indicate a decision otherwise that in accordance with the development plan. For the reasons given above, and having considered all matters raised, the appeal is dismissed.

*L Gardner*

INSPECTOR