
Appeal Decision

Site visits made on 26 and 27 June 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 July 2017

Appeal Ref: APP/X5990/Z/17/3171403

4 Kingly Court, London W1B 5PW

- 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 Mr Joseph St Clair-Ford against the decision of City of Westminster Council.
 - The application Ref 16/11882/ADV, dated 12 December 2016, was refused by notice dated 11 January 2017.
 - The advertisement proposed is 1 set of internally illuminated text on canopy.
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Decision

1. The appeal is allowed and express consent is granted for the display of 1 set of internally illuminated text on canopy as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations.¹

Main Issue

2. The main issue is the effect of the sign on the visual amenity of the area and whether it would preserve or enhance the character or appearance of the Soho Conservation Area (CA).

Reasons

3. The appeal premises is a bar and club trading as 'Disrepute'. It is accessed from a side door on a passageway off Beak Street. The passage leads into Kingly Court, a complex of bars, restaurants, cafes and retails outlets situated between Kingly Street and Carnaby Street. The site lies within the Soho CA. The proposed sign has already been provided on site and the application is, therefore, retrospective.
4. As I saw during my night-time site visit, there are a variety of types and styles of signage in this busy commercial area, including illuminated signs of different shapes and sizes, some advertising Kingly Court itself. The Council refers to non-illuminated or externally illuminated projecting signs of a modest size being more prevalent but accepts that there are some internally illuminated signs. However, it advises that they tend to be restricted to individual lettering rather than entire fascias or projecting box signs. Nevertheless, some of the illuminated signage in the area was considerably larger than the relatively modest box or canopy sign at the appeal site which, according to the submitted plans is 1.2 metres wide, 0.25 metres high and projects 0.5 metres.

¹ Town and Country Planning (Control of Advertisements)(England) Regulations 2007

5. From Beak Street, the view at night into Kingly Court towards the appeal site is through a brightly-lit section of covered passageway. It contains projecting wall lamps, hanging ceiling lights, recessed spot lights, a lit menu display case and strip lighting to one side. The appeal site is located at the end of the covered passageway. Its illuminated sign projects from the western side elevation above a doorway. There are two projecting illuminated white light columns either side of the door, which are not part of the appeal scheme. Within that visual context, the illuminated canopy sign does not appear obtrusive or incongruous.
6. Whilst this particular type of signage may not be widespread in the area, the particular sign forms an attractively designed canopy above the doorway. It is angled on two sides, each displaying the name of the establishment in discreet black acrylic font. The sides meet a front section which shows the street number. The illuminated parts are set within polished brass panels with perforations in the lower panel creating decorative patterns of light above the doorway. I also viewed the sign during the daytime unlit when it had a relatively demure black and white appearance which did not particularly draw the eye. I consider that its high quality aesthetic makes a positive contribution to the area.
7. According to the submitted plans, the current sign has replaced a previous sign illuminated by a trough light above, so there was already lit signage at the location before. Whilst there are no other internally illuminated projecting signs along this part of the passage, there is other illuminated signage in view. Nearby, in the main internal courtyard of Kingly Court, there is an array of shops, cafes, bars and restaurants festooned around the balconies which enclose it. They exhibit a mixture of signage, including illuminated signs. The bars, shops and restaurants in the busy thoroughfares surrounding Kingly Court also display various forms of illuminated signage.
8. With regard to the appearance of the building, very little of it can actually be seen within the context of the covered passageway and the enclosed nature of the Kingly Court complex. The Council suggests that the building is identified as an unlisted building of merit in the Soho & Chinatown Conservation Area Audit. However, the unlisted building of merit referred to in that document is 4 Kingly Street, which seems a more likely candidate and is shown as a separate property on the site plan. Moreover, 4 Kingly Court appears almost entirely enclosed by other built forms and I could detect no obvious significant public façade. In any event, I consider that the signage is appealing and enhances the entrance to the premises. Therefore, I do not consider that the sign has an adverse effect on the visual amenity of area.
9. As required by statute², I have also paid special attention to the desirability of preserving or enhancing the character or appearance of the CA and taken account of the importance which the Framework places on conserving designated heritage assets such as CAs. As I have found no harm to the appearance of the building or the visual amenity of the area and consider that the high quality sign enhances the locale, it follows that the proposal preserves and enhances the character and appearance of the CA.

² s72(1) Planning (Listed Buildings and Conservation Areas) Act 1990

10. The Council refers to two appeal decisions relating to 47 Beak Street and 38 Poland Street.³ They date from 2011 and 2010, respectively, and thus pre-date the National Planning Policy Framework (the Framework).⁴ According to the Council, both concerned proposals for internally illuminated projecting signs and were dismissed. However, as no copies of the decisions, other details or plans for those proposals have been provided, and only two very limited extracts from the decisions are quoted, I am unable to assess whether they represent a direct parallel with the appeal before me.
11. In the 47 Beak Street appeal, I note that the Inspector says that the proposal had little in common with the historic architecture of the host building and would draw the eye, particularly during the hours of darkness. However, in the appeal before me there is no such contrast with the architecture of the host building and the sign appears appropriate in its setting. The Inspector's decision relating to 38 Poland Street refers to the utilitarian appearance and visually intrusive nature of the sign in question whereas I have found the sign, which is the subject of this appeal, to be modest, attractive and of high quality design. In order to fulfil their function, signs are designed to be seen but that does not necessarily make them visually intrusive and I do not consider that the appeal sign crosses that boundary. Therefore, from the limited details provided I do not see that the appeal decisions are directly comparable to the appeal before me which I have, in any case, determined on its own merits.
12. Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to advertisement appeals. Rather than the development plan the primary basis of assessment is under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 which confine that judgement to issues of amenity, which includes visual amenity, and public safety. Nevertheless material provisions of the development plan should also be taken into account, although they are not necessarily decisive.
13. I have taken into account the policies variously referred to by the Council in their decision notice and Officer's report, including policies S25 and S28 of Westminster's City Plan⁵ and saved policies DES8 and DES9 of the Unitary Development Plan (UDP)⁶, which, amongst other things, seek to protect the character and appearance of CAs and secure exemplary design, which are material factors in this case.
14. As I have concluded that the proposal does not harm visual amenity or fail to preserve the character or appearance of the CA, I do not consider that it conflicts with the objectives of those policies. Whilst Policy DES8 of the UDP states that consent will not normally be granted for internally illuminated box fascia signs within CAs, it is not a complete preclusion and paragraph 10.98 of its reasoned justification qualifies matters stating that consent will not normally be granted for such signs *'unless they can be related successfully to the design and detailing of the building and do not detract from the character of a group of buildings or a street'*. For the reasons already given, I consider that the appeal proposal meets those requirements.

³ APP/X5990/H/17/2153091 and APP/X5990/H/10/2138757

⁴ Published 2012

⁵ Consolidated with all changes since November 2013 (November 2016)

⁶ Adopted 2007

15. Moreover, policy DES8 also states that consent will be granted for signs which are well designed and sensitively located within the street scene, which again are criteria met by the proposal. The UDP dates from 2007 and the supplementary planning guidance documents⁷ cited by the Council date from 1990 and 1992, respectively. Whilst age alone does not invalidate them, they all pre-date the Framework by some years, and reflect a more prescriptive policy approach. Paragraph 67 of the Framework simply states that poorly placed advertisement can have a negative impact on the appearance of the built and natural environment and that advertisements should be subject to control only in the interests of amenity and public safety, which are the factors cited in the relevant regulations. That enables each case to be assessed on the basis of its particular context and characteristics, which is the approach that I have taken.
16. Overall therefore, the above factors lead me to conclude that the internally illuminated canopy sign does not harm the building or the visual amenity of the area. As I have found no harm and consider that the sign has a generally positive effect, it follows that it preserves and enhances the character and appearance of the Soho CA.

Conclusion

17. For the reasons given above, and having regard to all other matters raised, I the appeal should be allowed.

Jonathan Tudor

INSPECTOR

⁷ 'Advertisement Design Guidelines' and 'Shopfronts, Blinds and Signs – A Guide to their Design'