
Appeal Decisions

Site visit made on 24 October 2017

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 3 November 2017

Appeal A Ref: APP/X5990/W/17/3180251

2 Crown Passage, London SW1Y 6PP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Azzurri Group against the decision of City of Westminster Council.
 - The application Ref 17/03691/TCH, dated 28 April 2017, was refused by notice dated 23 June 2017.
 - The development proposed is use of highway to place high stools in association with adjacent food shop.
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Appeal B Ref: APP/X5990/H/17/3180252

2 Crown Passage, London SW1Y 6PP

- 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 Azzurri Group against the decision of City of Westminster Council.
 - The application Ref 17/03692/ADV, dated 28 April 2017, was refused by notice dated 23 June 2017.
 - The advertisement proposed is an A Board.
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Decisions

1. Appeal A is allowed and planning permission is granted for use of highway to place high stools in association with adjacent food shop at 2 Crown Passage, London SW1Y 6PP in accordance with the terms of the application, Ref 17/03691/TCH, dated 28 April 2017, subject to the following conditions:
 - 1) The development hereby permitted shall accord with the following approved plans: 5525-P-08 and 5525-P-07 Rev C.
 - 2) The use hereby permitted shall be for a limited period being the period of 12 months from the date of this decision.
 - 3) The stools shall only be placed on the pavement between 06.30 to 17.00 Mondays to Fridays.
2. Appeal B is dismissed.

Preliminary matters

3. The Council's decision letter relating to Appeal A includes the placing of three tables in the description of the development. However this is not included in the description given on the application forms, and the appellant has confirmed that no tables are proposed. Indeed no tables are shown on the plans.

4. At my site visit it was apparent that five high stools and an A board advertisement were in situ. A shelf affixed to the shopfront was also in place, however my decisions relate solely to the items listed in the banner headings above.

Main Issues

5. With respect to Appeal A the main issues are the effect of the development on pedestrian safety and on the ability of the footpath to be maintained.
6. With respect to Appeal B the main issue is the effect of the advertisement on visual amenity of the area which is within the St James's Conservation Area (SJCA) and which includes the setting of Grade II listed buildings.

Reasons

Appeal A

Pedestrian safety

7. Crown Passage (the 'Passage') is a footpath that links Pall Mall with King Street. It is populated by a range of shops including a number of cafes and food outlets and, at the time of my lunchtime site visit, was busy with pedestrians.
8. The six stools shown on the submitted plan are facing each other in pairs. However they are not indicated as being fixed to the ground, and at my site visit I saw that five unattached stools were in place and all happened to be facing the shopfront.
9. The guidance provided in Westminster Way Public Realm Strategy, which is referred to by both parties, advises that an unobstructed clearance of at least two metres is necessary.
10. At my visit, the five stools were unoccupied and were partly tucked under the fixed shelf. The unobstructed width of the path was around two metres and the stools did not appear to cause any obstruction to pedestrians. Furthermore, if the stools are facing perpendicular to the shopfront, as shown on the plans, the two metre width would also be achievable. When the stools are facing the shop and occupied the unobstructed width of the path would be slightly reduced, as the stools would need to be pulled out slightly, but not to the extent that it is materially obstructed.
11. Consequently, I do not consider the stools block the flow of pedestrians along the Passage, and the safety of pedestrians is maintained. As such the development does not conflict with Policy S41 of the Westminster City Plan (WCP) and Policy TRANS 3 of the Unitary Development Plan (UDP) which both aim to improve the pedestrian environment. It also accords with Policy TACE 11 of the UDP which specifically requires chairs on the footway to not cause an obstruction.

Maintenance

12. The Council advise that an unobstructed clearance of two metres is also necessary to allow street cleaning operatives to pass. As set out above a two metre unobstructed clearance appears achievable in most cases, and on occasions when it isn't it would be because the stool is occupied, in which case

the occupier could readily move temporarily to let the operative to pass. Notwithstanding this, as suggested by the appellant, I consider it is most likely that street cleaning would be undertaken in the late evening or early morning when the food shop is closed and the stools put away, or at least at times when the Passage is not busy.

13. Accordingly I do not consider the stools prevent the cleaning of the footpath and, in this respect also, the development accords with Policy TACE 11 which specifically requires chairs on the footway to not cause a problem with street cleansing.

Other matter

14. The Council raise no objection to this development in terms of its effect on the character and appearance of the SJCA or the setting of the Grade II listed buildings at No 18 and the Red Lion public house, and I have no reason to reach a different view.

Appeal B

15. The A board is modest in its size and supplements the existing fascia sign and projecting sign on the building. Indeed the Passage is populated with many fascia and projecting signs including that at the Red Lion opposite the site. These signs, though varied in colour and design, lend a characteristic consistency to the Passage in terms of their form and position.
16. There are no other A Board signs along the footpath. As such the advert departs from the regularity of the other advertising along the Passage. Moreover, by constituting an advert at a different level, it visually widens the spread of advertising and hence adds clutter.
17. I accept that the advert is only in place during the shop's opening hours. Nonetheless, this is clearly when the Passage is most populated and so to the majority of its users, the advert would appear divergent from its context.
18. I give little weight to the consideration that the advert assists in the growth of the business, as the building is already served by a fascia and projecting sign which makes it equally as visible as the other businesses in the Passage.
19. Consequently, the advert harms the visual amenity of this part of the Passage and so fails to preserve the character and appearance of the SJCA, of which the Passage is a key feature. Also, the setting of the listed building opposite is strongly informed by the character of this part of the Passage and therefore the harm to amenity also harms the setting of this listed building. The listed building at No 18 is further along the Passage and I do not consider its setting is materially harmed by the advert.
20. I have taken into account Policies S25 of the WCP and DES 9 of the UDP which both seek to conserve heritage assets, Policy DES 8 of the UDP which aims to ensure adverts are of the highest design quality, and Policy S28 of the WCP which aims to ensure all proposals are of the highest design quality. As I have concluded that the advert harms amenity, it therefore conflicts with these policies.

Conclusions and Conditions

Appeal A

21. For the reasons given above, and taking account of all other considerations, I conclude that this appeal should be allowed.
22. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance (PPG) and the National Planning Policy Framework. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect this guidance.
23. A condition specifying the relevant plans is necessary in order to provide certainty. I have also included a condition restricting the planning permission to a temporary period as the Council retains control of the public highway and may need to react to changing circumstances. The condition limiting the hours of the day when the stools are in place relates to the opening hours of the shop and is necessary so that they do not detract from the character and appearance of the Passage when the shop is closed.
24. I have not added the suggested condition excluding all other street furniture as this planning permission clearly only relates to the stools. I also do not consider it necessary to restrict the use of the stools only by customers of the shop as the identity of the users of the stools is not a planning matter.

Appeal B

25. For the reasons given above, and taking account of all other considerations, I conclude that this appeal should be dismissed.

Andrew Owen

INSPECTOR