



Appeal Decision

Site visit made on 23 July 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

Appeal Ref: APP/Q1445/H/18/3213524
55 East Street, Brighton BN1 1HN

- 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 Nathan Still of Infocus Public Networks Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/01826, dated 7 June 2018, was refused by notice dated 16 August 2018.
 - The advertisement proposed is a single illuminated sequential display affixed to the frame of the communication hub.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development is taken from that used to describe the advertisement on the application form.
3. There is a concurrent appeal¹ relating to the installation of the communication hub to which it is proposed to affix the advertisement. This is considered in a separate decision as it relates to the prior approval procedure under Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Main Issues

4. The main issues are the effect of the proposal on the amenity of the area, including the impact on designated heritage assets, and public safety.

Reasons

Amenity

5. The proposed advertisement would be located within the Old Town Conservation Area (OTCA). The OTCA covers the economic, social and civic core of Brighton, and its significance derives in part from the quality of buildings with the hierarchy of streets reflecting the evolution of the city over time. East Street is a narrower lane with tight knit smaller properties giving a more intimate character. There are significant groups of Grade II listed

¹ APP/Q1445/W/18/3213521

buildings near to the appeal site² which enrich the quality of the historic environment. Many nearby buildings have predominantly traditional shopfronts, where fascia signage is subdued, and illumination is unobtrusive, which contributes positively to the character and appearance of the OTCA.

6. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. This statutory duty applies in advertisement appeals in so far as it relates to the consideration of amenity.
7. The advertisement would comprise a tall, freestanding, illuminated screen with a modern functional appearance. The size of the advertisement, conspicuous location within East Street, illumination and changing display would be a brash addition significantly at odds with, and harmful to, the surrounding traditional and restrained character of the OTCA. As such, it would be harmful to the amenity of the area and furthermore, would fail to preserve the character and appearance of the OTCA.
8. In addition, some views of the nearby Valley Gardens Conservation Area (VGCA), to the north are possible, including glimpses of the edge of the Royal Pavilion and associated grounds, from which the significance of the VGCA is principally derived. As such, the setting of this VGCA would be harmed by the proposal.
9. Given the advertisement's prominent position, it would feature in views within and along East Street. Consequently, it would be a visual distraction to the pleasant grouping of nearby Grade II listed buildings³ dating from the late 18th or early 19th century, mostly arranged around a small square to the north west that may once have been an inlet or wharf. On this basis, as it would adversely affect the surroundings in which these designated heritage assets are experienced, it would result in harm to their setting.
10. The appellant highlights other illuminated street furniture, shop signage and pre-existing examples of advertisements similar to the appeal proposal generally in the vicinity but as none are identified, I am unable to make a specific comparison. In any event, I have considered the proposal on its own merits.
11. In accordance with Regulation 3 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 I have taken into account saved policies QD12 and HE9 of the Brighton and Hove Local Plan, 2005 (LP) and policy CP15 of the Brighton and Hove City Plan Part One, March 2016. These policies seek to ensure, amongst other matters, that development, including advertisements, does not adversely affect the visual appearance of the local area and in particular, the quality of the historic environment. As such, they are material to the consideration of amenity. Given that I have concluded the proposal would be harmful to the appearance of the historic environment, the proposal conflicts with these policies.
12. Accordingly, I find that the advertisement would be harmful to the amenity of the area and would be contrary to the provisions of paragraph 132 of the National Planning Policy Framework.

² Nos 22-23A, 26-27, 28, 29, 30, 31, 35, 36 East Street & The Sussex Tavern, East Street.

³ Nos 22-23A, 26-27, 28, 29, 30, 31, 35, 36 East Street & The Sussex Tavern, East Street.

Public Safety

13. The proposal would be situated within the designated pedestrian zone of East Street whereby pedestrians use the whole width of the street as a shared surface. Therefore, notwithstanding that the route may serve significant numbers of pedestrians as a route to the seafront, significant unobstructed space would remain for pedestrian use. Although the position of the advertisement may present a barrier to the desire line in some cases, whilst a little inconvenient, there would be sufficient room to move around the advertisement without compromising public safety.
14. The Council highlight that the pedestrianised street is shared with cyclists and motorised vehicles for loading purposes. However, irrespective of the appeal proposal, cyclists and drivers would, due to specific traffic signage, be aware of the nature of the shared space and would need to exercise caution on that basis, which would be reflected in their speed. Consequently, there is little evidence to substantiate the concern that the proposal would result in a harmful conflict between road users. Furthermore, given this context, the location and scale of the proposal is unlikely to reduce the forward visibility of cyclists or motorists to such an extent as to amount to an unacceptable harm to highway safety.
15. As such, although policies QD12 and TR7 of the LP are material to the consideration of public safety, based on the evidence presented, I find no conflict with their objective to prevent adverse harm to public safety. It follows that this does not present a reason to dismiss the appeal.

Conclusion

16. Although, I do not find unacceptable harm to public safety, the advertisement would be harmful to the amenity of the area. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector