
Appeal Decision

Site visit made on 10 September 2019 by AJ Sutton BA Hons DipTP DMS MRTPI

by R C Kirby BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2019

Appeal Ref: APP/X5990/Z/19/3233194

363-367 Oxford Street, London W1C 2LA

- 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 blowUp Media UK Ltd against the decision of City of Westminster Council.
 - The application Ref 19/04491/ADV, dated 6 June 2019, was refused by notice dated 26 June 2019.
 - The advertisement proposed is described as 'Display of 1 externally illuminated advertisement banner for a temporary period of 12 months'.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The main issue is the effect that the proposal on the visual amenity of the area.

Reasons for the Recommendation

4. The appeal property is located on Oxford Street, a busy, internationally significant retail and commercial centre, adjacent to Bond Street underground station. It forms part of a row of properties, designed and constructed in different periods for retail/commercial use with associated fascia and branding signage located at street level, consistent with the pattern of development observed along the length of Oxford Street.
5. The flat roofed property is a four-storey building with a large ground floor opening adorned with a fascia sign immediately above, identifying its retail use. The façade comprises sleek building lines, clad in black granite with parallel inset sections of small glass blocks framing the fenestration. Its simple box like appearance contrasts with the 19th Century red brick and dressed stone building to the west and a modern building, of a later architectural period than the appeal property, towards the east. It is located within the Mayfair Conservation Area.

6. The proposal is for a large, illuminated banner style advertisement to be located at a high level on the host building for a temporary period.
7. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration where relevant. However, powers under the Regulations¹ to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. The Framework and the Planning Practice Guidance reiterate this approach. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.
8. The proposal, by virtue of its location and design, would not affect public safety. This is not disputed.
9. The Regulations define factors considered relevant to amenity, which include general characteristics of the locality, including the presence of any features of historic, architectural, cultural or similar interest. The Planning Practice Guidance, noting that this is not an exhaustive definition, clarifies that amenity is understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement ...where residents or passers-by will be aware of the advertisement². Whilst the proposed advertisement would not have an effect on aural amenity, it is designed to be large and clearly noticeable.
10. The development would significantly alter the appearance of the host building and its immediate setting. The proposed banner would be large, illuminated and be in a prominent position on the host building. Whereas, the appeal property was clearly constructed for retail/commercial use, accessible from the ground floor level, there is no evidence to suggest that the wider facade was designed to accommodate advertisement similar to that proposed. Indeed, the proposed scale and location of the advertisement, would draw focus from the intended use of the property, rendering the majority of the understated, pleasingly proportioned facade invisible.
11. Although the area is characterised by a variety of architectural styles, low fascia signs, colours and building materials, what is clearly consistent in the area, is the absence of advertisements positioned at a high level on buildings, other than projecting linear banners confined to department stores. I note the evidence before me indicating that the appeal property has hosted large advertisements at a high level in the recent past. However, I have not been provided with the circumstances that led to the display of these advertisements and I am therefore unable to ascertain whether they are directly comparable to the matter before me.
12. At the time of conducting the site visit there were no high-level advertisements of the nature proposed either on the host building or in its surrounding vicinity. The siting of a high-level advertisement banner would be significantly at odds with existing signage; the harm of which would be exacerbated by the proposed illumination. Therefore, if permitted, the solitary nature of the proposed advertisement would increase its visible prominence in the street scene, altering the existing uniformity in respect to signage, thereby, adversely affecting the appearance of the building and harming the character of the area.

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

² Paragraph 079 Ref ID:18b-079-20140306

13. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 132 of the National Planning Policy Framework (Framework) highlights that the quality and character of places can suffer when advertisements are poorly sited and designed. Given my findings above, I find that the proposed advertisement would be harmful to the character and appearance of the conservation area. It would not preserve or enhance its character or appearance.
14. I have concluded that the proposal would significantly harm the visual amenity of the area, and in doing so my decision is limited to the matters set out in the Regulations. There would also be conflict with saved Policy DES 8 of the City of Westminster Unitary Development Plan 2007 which states that consent will not normally be granted for high level signs or temporary promotional banners on buildings. The appeal property does not fall into any of the building types identified as exceptions in the supporting text of the policy. Furthermore, the proposal would conflict with Policies S25 and S28 of the Westminster City Plan (2016) which require development to respect and conserve Westminster's heritage and local distinctiveness and enrich its World-class city environment. The temporary nature of the advertisement does not alter my findings.

Other Matters

15. References have been made to previous planning and appeal decisions and examples of similar proposals sited at different locations, including within Oxford Street. However, whilst a summary of these advertisements has been provided by the appellant, I have no detailed drawings and so am unable to determine whether they are directly comparable to the advertisement before me. In any event I am required to consider the proposal on its merits, and this is what I have done. The granting of consent for advertisements elsewhere does not provide justification for harmful advertisement material.

Conclusion and Recommendation

16. For the reasons outlined above, and having regard to all other matters raised, it is recommended that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and concur that the appeal should be dismissed.

RC Kirby

INSPECTOR