



Appeal Decision

Site visit made on 14 October 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2019

Appeal Ref: APP/X5990/Z/19/3233673

5-6 Leicester Square, London WC2H 7NA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Caesars Entertainment UK against the decision of City of Westminster Council.
 - The application Ref: 19/02106/ADV, dated 20/03/19, was refused by notice dated 5 June 2019.
 - The advertisement proposed is described as 'replacement of existing 1 x high level banner sign with 1 x high level LED display sign. Replacement of existing 2 x mid level banner signs with 2 x mid level LED display signs'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During my site visit I saw that existing high level banner signs, as per the description quoted in the banner heading above, were not on display at the front of the appeal building. The continuity of any such banner signs as may have previously been on display is disputed by the main parties. The appellant considers such signs to have been continuously in place for in excess of 10 years, and consequently to have deemed consent. The Council contests this and I see no clear evidence of such continuity. The Council stated at the time of their decision that banner signs on the building were subject to enforcement action, and I see no reason to doubt this.
3. Taking the above together, I find that the proposal would not replace existing signage as it is not in place. Moreover, I consider that the proposal is more accurately described as that shown in the decision notice and the statement of case, namely: display of two internally illuminated LED screens measuring 1.5 x 3.5m and one internally illuminated LED screen measuring 3m x 14m. I assess the proposal on this basis.

Main Issue

4. The main issue is the effect of the proposed advertisement on the amenity of the appeal site and its surroundings.

Reasons

5. The appeal building is located within the Leicester Square Conservation Area (CA). Leicester Square is a key public square in London with a high heritage

value, as well as being a busy and vibrant commercial area which is nationally recognised for its cinemas, and is further characterised by entertainment uses. The building's immediate surroundings within the CA are defined by the public realm including the central public garden, the grand old theatre buildings and the surrounding entertainment uses. Originally a variety theatre dating from the late 1800s, the building is categorised as an unlisted building of merit.

6. The front facade of the appeal building is located approximately in the middle of a row of mainly white coloured buildings which faces onto the public garden at the centre of Leicester Square. The location and colouring of the host row give it particular prominence. To one side of the appeal building is a more modern multi-storeyed building, and to the other is an older multi-storeyed building with an ornate front facade. The appeal building is a substantial building, which is in use as a cinema and casino. The front of the building particularly stands out within the street scene due to the following factors: its contrasting lower height, relative to the adjacent buildings; its location broadly within the middle of the host row, facing onto the Square's central public garden; and its combination of tripartite arch, coffered ceiling, classical columns and balustrade. Together, the above factors give the appeal building's front facade prominence and distinctiveness.
7. The combination of key architectural features described above significantly contributes to the finely detailed historic front facade of the building, and draws the eye within the streetscene. Moreover, I saw during my site visit that the frontal view of this facade is a focal point within an attractive vista, seen, framed by trees, from the Square's central public garden. The above combination of architectural features is also an important component of views of the front of the building, approaching it from both sides, within Leicester Square.
8. The proposed three internally illuminated LED screens would be situated on the top two thirds of the front facade of the building, within the space between the old Empire Theatre sign at the top, and the more modern Empire Imax and Casino signage lower down. During my site visit I saw that the upper part of the building, where the proposed LED screens would be located, is clearly visible, viewed exiting Leicester Square tube station and walking down Cranbourn Street onto Leicester Square. The front facade is also clearly visible from various other points within and alongside the public garden. The above factors provide substantial views of the site of the proposed advertisement within the CA. Moreover, the high footfall which is evident in the iconic Square means the front of the building is visible to a large number of receptors.
9. Due to their high level position at the front of the building and the kinetic nature of their displays, the proposed combination of LED screens would be a prominent addition to the building and the streetscene. The larger proposed horizontal screen would substantially conceal and visually 'cut off' the top part of the main central arch, viewed approaching the building from the front and sides. Moreover, it would partially obscure and substantially distract from the coffered ceiling within the building's front entrance. The two proposed vertical side screens would partially obscure the column detailing towards the sides of the front facade.
10. The proposed combination of two vertical LED screens on each side of the front of the building, and a larger horizontal screen across the width of it, would

- substantially obscure the key architectural features described. Consequently the proposal would overly dominate the building's front facade.
11. The guidance in the City of Westminster Advertisement Design Guidelines (1992) (ADG) states in paragraph 13.2 that, in Leicester Square, large scale advertisements should be restricted to established cinema frontages. Nevertheless, in guiding assessment of specific proposals, the ADG adds the following: for theatres, cinemas and other public entertainment buildings, individual proposals will be considered in terms of their design merits, relationship to the building, and contribution to the day and night time character and appearance of the street and area (paragraph 12.1); in Piccadilly Circus and Leicester Square, high level moving advertisements, for example cinematic screens, will not normally be allowed (paragraph 13.2); and in respect of high level advertisements in Leicester Square the general design principles of Section 3, will be applied (paragraph 13.2).
 12. Together, the guidance in paragraphs 3.1, 3.2 and 3.5 of Section 3 of the ADG seeks to ensure the following: that advertisements preserve or enhance the character or appearance of the conservation area; the design of illuminated signs in conservation areas relates well to the buildings on which they are to be fixed; and generally most advertisements are designed to suit the proportions and architectural detailing of the host building.
 13. The large scale, high level frontage advertising on the front of the Odeon and Vue Cinemas, within the CA, is recognised. Furthermore, I note the other examples of signage within the CA cited by the appellant. Notwithstanding these, I observed during my site visit that the majority of advertisements associated with the retail and commercial uses on buildings at the core of the CA, set around the Square's central public garden, are located at ground floor level. Moreover, I saw during my site visit that the row of buildings in which the appeal building is sited was free from large scale high-level signage.
 14. Within this context, having assessed the proposal in the light of the requirements of Section 3 of the ADG, as described above, I find that the proposal would entail a large scale, illuminated, moving display at high level which would significantly obscure and distract from key architectural features of the host building. This would not suit the proportions and architectural detailing of the host building, and would not relate well to the latter. Moreover, the proposal would cumulatively add to the proliferation of modern illuminated, animated high level advertising within the area, which would distract from the older architectural character within the CA, and exacerbate the harm to visual amenity.
 15. Therefore, the proposal would not be in keeping with important historical and architectural features of the area, and would fail to preserve or enhance the character or appearance of the CA, including the appearance of the host building. This would be detrimental to the visual amenity of this historic area. As such, the proposal would not accord with the guidance in paragraphs 3.1, 3.2 and 3.5 of Section 3 of the ADG. In so doing, the proposal would also conflict with paragraph 13.2 of the ADG.
 16. I acknowledge that whilst the architectural features of the appeal building would be partially obscured by the proposed signs, they would not be removed and would be visible from certain angles. However, these considerations do not outweigh the harm to visual amenity described above.

17. The appellant sets out that if this appeal is dismissed, they could consider an alternative signage strategy, using deemed consent rights. However, given the absence of high level banner signage on the building at the time of my site visit, and the Council's stated enforcement action in relation to previous signage, I have no certainty that the suggested fallback position would be more than a theoretical possibility. Accordingly, this factor does not weigh in favour of the proposal.
18. My attention is drawn to a number of appeals¹ allowed on the appeal building and adjacent building. However, the other cases differ from the proposal before me in that they do not entail large scale, high level illuminated displays on the front facade of the building. As such, they have limited equivalence to the proposal.
19. I note the advertisement consents referred to by the appellant, which concern 1-4 Leicester Square, the Odeon Cinema at 22-24 Leicester Square and TGI Fridays at 29-30 Leicester Square. However, I do not have full details of the other cases and so cannot determine whether the circumstances are analogous to the proposal before me. Moreover, having considered the character and appearance of the area - which includes the above buildings - as seen during my site visit, I assess the proposal on its own merits.
20. I note the appellant's view that the proposed signs could easily be removed without damaging the architectural detailing of the host building. However, that is not guaranteed. Moreover, for the period that the signs would be in place, they would cause the harm described above.
21. The appellant's argument is that the proposed LED signage is necessary to help the casino and cinema compete for passing trade with other major facilities in the vicinity of Leicester Square. Even if this were so, the policy in paragraph 196 of the Framework is not applicable, and the Regulations make it clear that advertisements are subject to control only in the interests of visual and aural amenity and public safety. It is suggested that the proposal would lead to increased customer spend, which would contribute to the upkeep of the building. However, I see no clear evidence that the proposal is essential to safeguard the architectural features and visual amenity of the building.
22. Taking the above together, I conclude that the proposed advertisement would have an unacceptably harmful effect on the visual amenity of the building and the area. Moreover, it would fail to preserve or enhance the character or appearance of the CA.
23. I have taken into account Policy DES8 of the City of Westminster's Unitary Development Plan (2007) (UDP) and Policy S25 of the Westminster City Plan (2016) (CP). Policy DES8 requires advertisements to be sensitively located within the streetscene, and relate to the character, scale and architectural features of the buildings on which they are fixed. Policy S25 requires Westminster's conservation areas and historic squares to be conserved. As described above, I have also taken into account the guidance in paragraph 13.2 of the ADG, which supports application of the general design principles in Section 3 of the ADG. As such, the policies and guidance seek to protect visual

¹ Refs: APP/X5990/H/99/0004, APP/X5990/Z/16/3142626, APP/X5990/Z/15/3134813 and APP/X5990/H/07/1202085.

amenity, and so are material in this case. Given my finding that the proposal would harm amenity, the proposal conflicts with these policies and guidance.

24. As Policies DES1 and DES9 of the UDP and Policy S28 of the CP do not specifically address advertisement proposals, they are not engaged in this case.
25. Furthermore, in my consideration of the proposal's effect on amenity, I have had regard to the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA.

Conclusion

26. For the reasons given above, I conclude that the appeal should be dismissed.

William Cooper

INSPECTOR