The Planning Inspectorate

Appeal Decision

Site visit made on 4 November 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2019

Appeal Ref: APP/X5990/Z/19/3231934
Five Guys, Unit 1/2, Coventry Street, London W1D 7DH

- 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 Five Guys JV Ltd against the decision of City of Westminster Council.
- The application Ref 19/02663/ADV, dated 5 April 2019, was refused by notice dated 2 May 2019.
- The advertisement proposed is 2 no. high level banner signs.

Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The Council's Decision Notice describes the proposal as "Display of two banner signs measuring 5.3m x 0.8m on Great Windmill Street elevation at first/second floor level". As this better focusses on the advertisements involved I have dealt with the appeal on this basis.

3. The Council has served an Enforcement Notice[1] in relation to, amongst other things, banner signs at the appeal site and elsewhere around Trocadero. This is the subject of a separate appeal[2], for which there is a separate decision.

Main Issue

4. The main issue is the effect of the proposed advertisements on the amenity of the area, with particular regard to the appearance of the appeal property, the character and appearance of the Soho Conservation Area and the setting of Grade II listed buildings found at 20-24 Shaftesbury Avenue and 18-20 Coventry Street.

Reasons

5. The Regulations[3] and the National Planning Policy Framework state that advertisements should be subject to control only in the interests of amenity and public safety. Factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest[4].

[1] Reference LS/NG/40002106
[2] Appeal Ref: APP/X5990/C/19/3231976
[3] The Town and Country Planning (Control of Advertisements) (England) Regulations 2007
[4] Regulation 3(2) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

6. The appeal relates to an unlisted part of the wider building known as Trocadero, on Great Windmill Street. This part of the building is of twentieth century origin and is characterised by a pleasant symmetrical composition of windows, including projecting rounded bays, and other architectural detailing.

7. The buildings in the street are tight to the carriageway so the street incorporates narrow footpaths and a limited extent of active frontage to either side. Moreover, it is focused on carrying vehicular traffic southwards between Shaftesbury Avenue and Coventry Street. Pedestrian footfall is primarily through covered colonnades to either side of the street, which allow intermittent visibility into the street. The floor space of the appeal building adjoins the colonnade to the east of the Great Windmill Street but most of this elevation at ground floor is not active. This is apart from the corner with Coventry Street, where there is visibility into the restaurant. Given its secondary nature, advertisements do not particularly feature in the street.

8. The building is situated within the Soho Conservation Area (Conservation Area), a Central Activity Zone and is close to Piccadilly Circus. As a result, the Conservation Area contains a high concentration of advertisements. However, unlike in Piccadilly Circus, advertisements found within the vicinity of the site are modest and primarily contained within fascias. Those that are situated at a higher level are few and far between and generally discreet.

9. The appeal property is also between Grade II listed buildings at 20-24 Shaftesbury Avenue and 18-20 Coventry Street. The former is a building of early twentieth century origin and incorporates finite architectural detailing through red brick and sandstone. The latter is a fine building of late nineteenth century origin with painted bath stone and carved architectural detailing throughout. Both buildings occupy key corner positions and make significant contributions to the Conservation Area. They also have secondary elevations to Great Windmill Street.

10. The banner signs at the appeal property are monochrome, utilising large white text on a black background. This has some similarities with the banners that were displayed during the last period of consent. However, those banners utilised a consistent design approach, with text and imagery specifically related to Trocadero as one entity and did not identify individual occupiers. Whilst banners may have continued to be displayed on the appeal building beyond the temporary period consented, they are not fundamental to the architectural expression of the building or the Conservation Area. Therefore, if they were not present there would not be harm to either.

11. The appellant suggests that the operative consent for banner signs at the appeal site was granted in 2006[5], for three years. However, banners of varying content have continued to be displayed using the same fixings, including those the subject of the appeal before me, which the appellant suggests were erected in 2017.

12. Although the banners do not obscure the architectural detailing of the appeal building, their size, colour and design contrast significantly with the architecture and composition of the building. Furthermore, whilst the banners identify the presence of the appellant's business in Trocadero, they do not relate to an active frontage of the building occupied by the business. The

[5] Application Reference: 06/03562/ADV

banners would therefore constitute unnecessary, prominent and obtrusive additions, which would have an adverse visual effect on a part of the building not in use by the appellant. The banners would also appear disproportionate with other advertisements found in this part of the Conservation Area.

13. Notwithstanding the above, given the narrow nature of Great Windmill Street, the visibility of the façades of buildings within the street are largely contained to views directly north and south into the street. With this in mind, despite my findings in relation to the appeal building and the Conservation Area, the banners would not be harmful to the setting of the listed buildings to the north and south. Moreover, the extent and projection of the banners would not be harmful in views towards the listed buildings at either end of the street, particularly as they would be partially obscured by the rounded projecting bays found on the upper storeys of the building.

14. I have been referred to several consents for banner signs and flags within the City. As the full circumstances behind each case are not before me, I am not able to afford these any weight. In any event, I have reached my own conclusion on the banners that are the subject of this appeal based on their individual merits. Nonetheless, the banner sign at West Street[6] is not situated within the Soho Conservation Area and the consent for banners at 109-113 Shaftesbury Avenue[7] was temporary and has since expired. Furthermore, as the consented schemes at 39 Coventry Street[8] and 107 Charing Cross Road[9] were for flag advertisements displayed on flag poles, they would not be comparable with the appeal scheme before me.

15. For the reasons outlined above, despite my favourable consideration of the proposal in relation to the setting of the listed buildings situated at 20-24 Shaftesbury Avenue and 18-20 Coventry Street, I conclude that the proposal would harm the visual amenity of the area, with particular regard to the appearance of the appeal property and the character and appearance of the Conservation Area.

16. I have taken into account the provisions of Saved Policies DES 1 and DES 8 and paragraphs 10.108 to 10.128 of the City of Westminster Unitary Development Plan (adopted January 2007) (UDP); and Policies S25 and S28 of the Westminster City Plan (Revised November 2016), so far as they are material, in accordance with the Regulations[10]. Together these policies seek the highest standards of design, including in advertisements, which should be compatible with the townscape and not at a high level or in banner form; development should also maintain the character, scale and hierarchy of existing buildings; and the character and appearance of conservation areas will be preserved or enhanced.

17. Given that I have concluded that the banner signs would harm visual amenity, the proposal conflicts with the abovementioned policies but would not conflict with Policy DES 10 of the UDP as this relates to listed buildings. Similarly, I have not found against the Council's Supplementary Planning Guidance 'Advertisement Design Guidelines' or the 'Soho and Chinatown Conservation

[6] Application Reference: 06/02223/ADV – 13-15 West Street, Covent Garden
[7] Application Reference: 16/04044/ADV – 109-113 Shaftesbury Avenue
[8] Application Reference: 14/05388/ADV – 39 Coventry Street
[9] Application Reference: 14/07001/ADV – 107 Charing Cross Road
[10] Regulation 3(1) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Area Audit', as they do not form part of the development plan so are not relevant to the appeal proposal.

Conclusion

18. For the reasons given above, I conclude that the appeal has been dismissed.

Paul Thompson

INSPECTOR