
Appeal Decisions

Site visit made on 7 January 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 23 January 2020

Appeal A: APP/X5990/Y/19/3237100

Former Bow Street Magistrate's Court, Bow Street, London WC2E 7AW

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by BTC Group Holdings UK Limited against the decision of City of Westminster Council.
 - The application Ref 19/04099/LBC, dated 28 May 2019, was refused by the Council by notice dated 23 July 2019.
 - The works proposed are display of a temporary scaffold shroud with replica of building façade [55.2m x 18.6m] and inset illuminated advertisement panel of [12m x 6m] (landscape) to front facade (Bow Street) Elevation for a temporary period of 9 months.
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Appeal B: APP/X5990/H/19/3237099

Former Bow Street Magistrate's Court, Bow Street, London WC2E 7AW

- 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 BTC Group Holdings UK Limited against the decision of City of Westminster Council.
 - The application Ref 19/04124/ADV, dated 28 May 2019, was refused by the Council by notice dated 23 July 2019.
 - The advertisement proposed is display of a temporary scaffold shroud with replica of building façade [55.2m x 18.6m] and inset illuminated advertisement panel of [12m x 6m] (landscape) to front facade (Bow Street) Elevation for a temporary period of 9 months.
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Decisions

1. I dismiss both appeals.

Reasons

2. The control of advertisements is exercisable only with regard to amenity and public safety and the effect on designated heritage assets is a matter of amenity. The main issue in both appeals is the effect of the proposal on the Grade II listed former magistrates court, the setting of the Grade I listed Royal Opera House and the character and appearance of the Covent Garden Conservation Area.
3. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

4. Paragraph 132 of the National Planning Policy Framework states that the quality and character of places can suffer when advertisements are poorly sited and designed. Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation; the more important the asset, the greater the weight should be. The Royal Opera House is listed at Grade I and hence is of particular importance.
5. The policies of the Development Plan are a material consideration only in both appeals. Policy S25 of the City Plan seeks the conservation of heritage assets. Policy DES 8 of the Unitary Development Plan is specific to signs and advertisements, and consent will be granted for those which satisfy criteria but will not be granted for permanent or temporary advertising hoardings or shrouds, unless they are sensitively related to the local context, with a minimum of obvious or intrusive commercial advertising content or display. Policy DES 9 concerns conservation areas and is consistent with statute in that regard, as is Policy DES 10 concerning listed buildings.
6. The Officer's Report refers to Supplementary Planning Guidance '*Advertisement Design Guidelines*' which indicates stricter levels of control in conservation areas and where advertisements are on listed buildings.
7. The appeal building has permission and consent for conversion into a hotel with restaurants and bars as well as a Police Museum (Refs: 12/12735/FULL and 12/12736/LBC dated 4 February 2014), and the works were in progress at the time of the site inspection. There was no scaffolding in place on the Bow Street elevation, although the 2 side elevations visible from Bow Street had scaffolding and conventional builder's sheeting, that to the Broad Court face also having temporary site accommodation on a raised level.
8. In line with the findings of an Inspector considering a proposal on another listed building in Westminster, there would be no harm to the building itself due to it being completely obscured by scaffolding and some form of protective sheeting at the time that the advertisement would be in place.
9. However, the prominent position in the wide views from the south along Bow Street which encompass the Royal Opera House, and particularly alongside the flank elevation of that building on approaching along Floral Street, with its distinctive high-level bridge, would result in the size and location of the advertisement being a disruptive element of the street-scene. It would be contrary to policy, guidance and the statutory tests, as it would harm the character and appearance of the conservation area, the setting of the Royal Opera House and hence would also fail the test of amenity in the Regulations.
10. The level of harm would be 'less than substantial', a differentiation required between paragraphs 195 and 196 of the Framework. In this case the latter applies and this states that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The use of the building has been secured by the grant of permission and consent, and the fact that those works are progressing.
11. The proposal is linked with the provision of the full-size image of the listed building's Bow Street elevation, in place of the conventional and utilitarian builder's sheeting, and that is a public benefit. The appeal building is worthy of being displayed in some form during the works, and the image would inform

the public and reinstate its presence in the historic setting, albeit as a flat image. There is reference to the revenue from advertising being needed to fund the extra-over cost of providing the image, and it has been confirmed that the display of the advertisement would be conditional on the full-scale image being in place, which would ensure that the benefits are secured.

12. There is a balance to be struck, as allowed for in paragraph 196, and the weight attaching to the harm has to be moderated by the temporary nature of that harm. Similarly the loss of the building as a positive contributor to the character and appearance of the conservation area and the setting of the Opera House would also be temporary, as would the harm caused by utilitarian and uncontrolled builder's sheeting.
13. Due to the exposed and highly prominent location opposite the end of Floral Street and due to the high historic, aesthetic and architectural value of the surroundings and the Opera House in particular, the conclusion is that the balance lies in not permitting the temporary display of the advertisement and in accepting that the image would be unlikely to be provided as a result.
14. The advertisement would cause harm to amenity through the adverse effect on designated heritage assets and the harm is not outweighed by public benefits. The proposal would not accord with Policies S25, DES 8, DES 9 and DES 10, and would fail the statutory tests in the Planning (Listed Buildings and Conservation Areas) Act as well as not according with the Framework on advertisements and designated heritage assets. For the reasons given above it is concluded that both appeals should be dismissed.

S J Papworth

INSPECTOR