
Appeal Decision

Site visit made on 18 August 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2020

Appeal Ref: APP/X5990/W/19/3241199

Achilles Way, London W1K 1AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Rossi against the decision of City of Westminster Council.
 - The application Ref 19/05652/FULL, dated 16 July 2019, was refused by notice dated 14 October 2019.
 - The development proposed is described as '1 Million Queen sculpture by Matt Marga by popular demand for Her Majesty Queen Elizabeth II platinum jubilee'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to a sculpture of Her Majesty Queen Elizabeth II's head profile, which is made from crystals and illuminated by spotlights. The sculpture is set within a glass panel, which measures around 5.6 metres tall and 3 metres wide. I have determined the appeal on the basis of the sculpture that has been installed.
3. The Council previously granted planning permission¹ for the sculpture to be displayed for a period of 6 months only. The information before me indicates that the sculpture was installed in December 2018 and so the 6 months period has expired. The current appeal scheme proposes for the sculpture to be displayed until December 2022.
4. The description of development shown on the planning application form refers to 'retention'. However, Section 55 of the Town and Country Planning Act 1990 as amended (TCPA 1990) describes 'development' as the carrying out of operations and not as their 'retention'. I have therefore removed the word 'retention' from the description of development in the heading above.

Main Issue

5. The main issue is the effect of the sculpture on the character and appearance of the Royal Parks Conservation Area, the setting of nearby nationally listed buildings and the Hyde Park Registered Park and Garden.

¹ Council's reference: 18/02337/FULL

Reasons

6. The sculpture is sited on a large traffic island, which is bounded by Achilles Way and the northbound and southbound carriageways of Park Lane. The Grade II listed statue of Lord Byron is located on the traffic island. The appeal site is within the Royal Parks Conservation Area (the CA) and close to the Grade I listed Hyde Park. There are nearby listed buildings to the east at No 5 Hamilton Place (Grade II*) and No 4 Hamilton Place (Grade II), and Grade I listed Apsley House is located to the south. These buildings are of special historic or architectural interest.
7. The duty imposed by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the setting of listed buildings. Section 72(1) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Paragraph 193 of the Framework states that "*great weight should be given to the [designated heritage] asset's conservation*".
8. The sculpture, at around 5.6 metres tall and 3 metres wide, is very large and located in a prominent position. The crystals create a striking and eye-catching appearance, which would be particularly evident after dark as they reflect light from the spotlights. The design and materials are alien to the site's context, which results in an obtrusive appearance that draws attention away from the adjacent listed Lord Byron Statue and the nearby listed buildings. The sculpture is particularly prominent in southerly views from Park Lane towards the Grade I listed Apsley House.
9. I therefore find that the proposal results in harm to the character and appearance of the CA, the setting of the nearby listed buildings and Hyde Park. Due to the scale and nature of the sculpture, I quantify the harm to the designated heritage assets as 'less than substantial'. In accordance with paragraph 196 of the Framework, any harm should be weighed against the public benefits of the proposal.
10. I acknowledge the contribution that public art can make to the culture, vibrancy and character of an area and I note the general policy support for such works within the London Plan 2016 and Westminster's City Plan November 2016 (the City Plan). However, such support is balanced against other policy considerations, such as the preservation of heritage assets.
11. While I accept that harm can be moderated by a short-term period of installation, it has already been in situ for well over a year and I find that a period until December 2022 would do little to mitigate against the harm I have identified. I am also mindful that Planning Practice Guidance advises that it will rarely be justifiable to grant a second temporary permission.
12. Overall, I find that the public benefits do not outweigh the harm to the designated heritage assets. The development is therefore contrary to Policies S25 and S28 of the City Plan and Policies DES 7, DES 9 and DES 12 of the Westminster Unitary Development Plan adopted January 2007, which, amongst other things, seek to preserve or enhance the character or appearance of conservation areas, listed buildings, parks and their settings. The proposal also conflicts with the Framework which gives great weight to the conservation of heritage assets.

Other Matters

13. I have had regard to the representation in support of the appeal scheme from an interested party. Furthermore, I note the appellant's statement that the proposal should have been determined by the planning committee rather than under delegated powers. However, these matters would not alter my decision.

Conclusion

14. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be dismissed.

C Osgathorp

INSPECTOR