
Appeal Decision

Site visit made on 15 December 2020

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd December 2020.

Appeal Ref: APP/X5990/Z/3254801

18 Mercer Street, London WC2H 9FA

- 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 The Mercers' Company against the decision of City of Westminster Council.
 - The application Ref 20/00226/ADV, dated 14 January 2020, was refused by notice dated 29 May 2020.
 - The advertisement proposed is public art.
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Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations.

Preliminary Matters

2. The original application sought consent for five years. However, the appellant and Council subsequently agreed that this should be amended to two years with a view for the Council to extend by a further year. However, as I have found no harm to amenity I cannot see a reason which would justify such a reduction in the standard time limit and as such I have determined the appeal on the basis of the original application.
3. I note the appellant's view that the mural is not an advert but rather a piece of public art. However, as this appeal follows an application for express consent I have determined the appeal on this basis and have not considered this matter further.
4. Powers under the Regulations to control advertisements may be exercised only in the interests of amenity and where appropriate public safety, taking account of any material factors. The Council has drawn to my attention the policies it considers relevant to the appeal and I have taken them into account as a material consideration though they have not, by themselves, been decisive in reaching my determination on this appeal.

Main Issue

5. The main issue is the effect of the advertisement on visual amenity; including the effect on the setting of nearby listed buildings and whether or not it would preserve or enhance the character or appearance of the Covent Garden Conservation Area.

Reasons

6. The appeal building, 18 Mercer Street, is a fairly large building situated on a fairly narrow side street. The building has a flat front element set back from the street with an angled 'wing'. The set-back creates a small 'forecourt' area which is separated from the street by a number of bollards. At present the building has several discreet plaques advertising nearby shops and the graphic design business which occupies the building itself. The Mercer Street elevation of No 18 is largely blank and the majority is rendered and painted cream/white.
7. Mercer Street is a mixed-use street with commercial uses at ground floor level and some residential above. The street is located between Long Acre which leads to the Covent Garden Piazza and Seven Dials and is part of a vibrant and bustling area with many shops, businesses, bars, restaurants, hotels and theatres and associated signage and advertisements. The appeal site is also situated within the Covent Garden Conservation Area (CA) and numbers 3, 5, 6 and 8 Mercer Street are listed buildings.
8. The current blank and utilitarian appearance of the Mercer Street elevation of No 18 appears incongruous when viewed against the detailing, scale and design of nearby buildings and currently detracts from the character and appearance of the CA.
9. I am required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Furthermore, the National Planning Policy Framework (the Framework) states in paragraph 132 that the quality and character of places can suffer when advertisements are poorly sited and designed. As set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, advertisements should be subject to control in the interests of amenity and public safety, and factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. Therefore, as the Planning Practice Guidance explains, if the locality where an advertisement is to be displayed has important scenic, historic, architectural or cultural features, consideration should be given to whether it is in scale and in keeping with these features.
10. The proposal is for a large, brightly coloured mural made up of a series of interlocking geometric shapes. The mural would have a partial border and would contain the phrase 'creativity is in all of us' in a central position. The mural would cover a large proportion of the Mercer Street elevation of No 18 and would spill onto the pavement of the 'forecourt'.
11. In accordance with the Regulations, I have taken into account the provisions of the development plan so far as they are material. Of particular relevance to the appeal proposal, Policy DES8 of the City of Westminster Unitary Development Plan 2007 (UDP) states that consent will be granted for advertisements which are well designed and sensitively located within the street scene and which relate to the character, scale and architectural features of the buildings on which they are fixed.
12. Furthermore, Policy S25 of Westminster's City Plan, November 2016 states that Westminster's heritage assets will be conserved, including its listed buildings and conservation areas and Policy S28 seeks exemplary standards of design

and states that in the correct context imaginative modern architecture is encouraged provided that it respects Westminster's heritage and local distinctiveness.

13. Due to the set-back of the front elevation of No 18, the mural would be partially screened from view from a number of key public vantage points and the full mural would be revealed only once in close proximity to No 18. Direct views of the proposed mural in the context of, or juxtaposition with, the nearby listed buildings would be limited and the mural and buildings are unlikely to be 'read' together; as such, I consider that the proposal would not have an adverse effect on their setting.
14. The colours and design of the mural are such that it would not assimilate into its immediate context but would, rather, draw the eye and stand out. However, in my view, such a design is an appropriate reflection of the bright and vibrant nature of the area. Moreover, the sentiment of the mural is one of creativity which further reflects the nature of the area of which it is part. In my view, the proposed mural would add detail and visual interest more in keeping with its context and would enhance the character and appearance of the area.
15. For the reasons set out above, I consider that the mural would not conflict with the development plan as it would respect the vibrant and creative nature of the wider area and would not cause harm to amenity in this regard. Furthermore, the proposal would not cause harm to the setting of the nearby listed buildings and would preserve or enhance the character or appearance of the CA.

Other Matters

16. I have noted a number of other issues raised; including concerns around the effect of removing the white wall on light levels at neighbouring properties. However, the wall could be painted an alternative colour without the need for permission and I have been provided with little substantive evidence to demonstrate harm in this respect. I also acknowledge the concerns regarding the possibility of the mural becoming a tourist attraction in its own right. However, once again, I have been provided with little substantive evidence in respect of the disruption which third parties are concerned could result. In my view, the proposed mural would be sited in an already bustling area and would not, therefore, cause undue harm to amenity or public safety in this regard.
17. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached above.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed.

L J O'Brien

INSPECTOR