



Appeal Decisions

Site Visit made on 12 July 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2021

Appeal A Ref: APP/E5900/W/20/3265345

60-62 Brick Lane, London E1 6RF

- 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 SA QSR Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/20/01885, dated 6 September 2020, was refused by notice dated 3 December 2020.
 - The development proposed is described as, "Replacement of the existing glazing and stall riser with large single pane shop front and double door, painting of the existing timber pillars and moulding surrounds at ground floor and window frame and brick arches red and the external street-facing brickwork at first floor level to be painted white".
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Appeal B Ref: APP/E5900/H/20/3265346

60-62 Brick Lane, London E1 6RF

- 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 SA QSR Ltd against the decision of the Council of the London Borough of Tower Hamlets.
The application Ref PA/20/01826, received on 28 August 2020, was refused by notice dated 5 November 2020.
 - The advertisements proposed are described as, "Replacement of the overhead fascia with backlit fascia signage. Replacement of existing projecting backlit signage with new backlit signage within the existing frame. Two new backlit menu signage boards behind the ground floor shopfront windows".
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for replacement of the existing glazing and stall riser with large single pane shop front and double door, painting of the existing timber pillars and moulding surrounds at ground floor and window frame red at 60-62 Brick Lane, London, E1 6RF in accordance with the terms of the application, Ref PA/20/01885, dated 6 September 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Insofar as they relate to the development hereby permitted, the development hereby permitted shall be carried out in accordance with the following approved plans: Location and Site Plan (AP.00.01) (Rev C), Proposed Plans (AP.01.02) (Rev A), Shop Front Elevation (AP.02.01)

(Rev C), Proposed Front Elevation (AP.02.03) (Rev B), Proposed Front Elevation Materials (AP.02.04) (Rev B).

Appeal B

2. That part of the appeal that relates to the proposed x2 illuminated projecting hanging signs is dismissed. That part of the appeal that relates to the proposed x1 illuminated fascia and x2 backlit menu signage as applied for is allowed and express consent granted for their display. The consent is for 5 years from the date of this decision and is subject to the 5 standard conditions set out in the Regulations and the following additional condition:
 - 1) Insofar as it relates to the advertisements hereby permitted, the advertisements hereby permitted shall be carried out in accordance with the following approved plans: Location and Site Plan (AP.00.01) (Rev C), Proposed Signage (AP.02.02) (Rev B), Proposed Front Elevation (AP.02.03) (Rev B).

Preliminary Matters

3. In relation to Appeal A, amended plans were submitted at the appeal stage¹, which show the frontage omitting the white painted brickwork and painted window arches at first floor level. These drawings do not substantially alter the nature of the proposal, and I am satisfied that the parties' interests would not be prejudiced by the drawings being considered in Appeal A. Therefore, I have considered the drawings as part of Appeal A.
4. As I have determined Appeal A on the basis of amended plans, it is necessary for a minor change to be made to the description of the development, in relation to Appeal A. This change does not substantially alter the nature of the proposal, and I am satisfied that the parties' interests would not be prejudiced by the change being made. For the avoidance of doubt, the revised description of development in relation to Appeal A is: "Replacement of the existing glazing and stall riser with large single pane shop front and double door, painting of the existing timber pillars and moulding surrounds at ground floor and window frame red". I have used this revised description in my consideration and determination of Appeal A.
5. In relation to Appeal B, the description of the proposed advertisements shown above is taken from the application form. It differs from that shown on the appeal form and decision notice. The latter identifies the proposed advertisements as, "Proposed x1 illuminated fascia, x2 illuminated projected hanging sign and x2 backlit menu signage". I have used this description in my consideration and determination of Appeal B, although I have changed the words 'projected' to 'projecting' and 'sign' to 'signs', since this best describes the proposed advertisements in precise and concise terms. This description, with the minor word changes, does not fundamentally alter the proposal which is the subject of Appeal B.
6. In relation to Appeal B, the appellant requested that a drawing named Proposed Signage (AP.02.02) (Rev A) be substituted by a drawing named Proposed Signage (AP.02.02) (Rev B). The size of the proposed 2 backlit menu signs are shown differently on each plan. However, the latter drawing does not

¹ Shop Front Elevation (AP.02.01) (Rev C), Proposed Front Elevation (AP.02.03) (Rev B), Proposed Front Elevation Materials (AP.02.04) (Rev B).

substantially alter the nature of the proposal, and I am satisfied that the parties' interests would not be prejudiced by the latter drawing being considered in Appeal B. Therefore, I have considered the latter drawing as part of Appeal B.

7. In relation to Appeal B, the appellant's Statement of Case states that the Proposed Front Elevation (AP.02.03) (Rev A) plan formed part of the advertisement consent application. However, as I have accepted an amended version of the same plan (Proposed Front Elevation (AP.02.03) (Rev B)) for Appeal A, for consistency that amended plan has also formed part of my consideration and determination for Appeal B. Similarly, as Revision C of the Location and Site Plan (AP.00.01) (Rev C) is referred to in the Council's decision notice for Appeal A, for consistency that plan has formed part of my consideration and determination for Appeal B.
8. At the site visit, I observed that a shopfront and projecting signs, which appear similar to the proposals, were in place at the site. Nevertheless, for the avoidance of doubt, these appeal decisions only relate to the proposed developments as shown on the submitted appeals plans.
9. Although a development has taken place, photographs have been submitted showing how the building looked before the development took place. I have had regard to these photographs in the determination of these appeals.
10. During the course of the appeals The London Plan was published², which replaced all previous versions. The parties were provided with an opportunity to comment on its relevance to these appeals, and I have taken the comments received into account in my determination of these appeals.
11. During the course of the appeals the revised National Planning Policy Framework (the Framework) was published, which replaced the February 2019 version. The parties were provided with an opportunity to comment on its relevance to these appeals. Although no comments were received, as the Framework is a material consideration in planning decisions, I have had regard to it in the determination of these appeals.

Main Issues

12. The main issue with respect to Appeal A is the effect of the proposal on the character and appearance of the host property and the surrounding area, including the Brick Lane and Fournier Street Conservation Area.
13. The main issues with respect to Appeal B are the effect of the proposed advertisements on amenity, including the Brick Lane and Fournier Street Conservation Area, and the effect of the proposed advertisements on public safety.

² The London Plan (published 2021)

Reasons: Appeal A

14. The appeal site comprises a 4-storey 19th-century building which is located on Brick Lane, close to the junction with Heneage Street. Its upper floors consist of stock brick with timber framed windows with brick arches. The site is within the Brick Lane and Fournier Street Conservation Area (conservation area). The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s72(1) that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
15. The significance of the conservation area, as a whole, as a designated heritage asset is detailed in the Brick Lane and Fournier Street Conservation Area Character Appraisal and Management Guidelines (adopted 2009) (Character Appraisal) which mentions that the conservation area is one of the most important historic areas in London, with a rich history and significant architecture, and that it is home to a diverse mix of fashion, art, entertainment, retail and start-up businesses. The Character Appraisal also refers to the vibrant, mixed-use character of Brick Lane, which contributes to its significance.
16. The appeal property contributes to the significance of the conservation area primarily by the traditional architectural features present on its upper floors. The Design and Access statement describes the previously-installed shopfront at the site as being a modern shopfront of a traditional design, which based on the plans and photographs before me, likely complemented its host property and the conservation area as a whole in visual terms, apart from its exposed air vents.
17. In this regard, I accept that wooden stall risers and doors are commonly found on traditional shopfronts. In contrast, the proposed large single-pane glazing with recessed aluminium frames, and the double door, would be unashamedly contemporary in their design. These features would contrast with the traditional architecture found on the upper floors of the host property, but this contrast between modern shopfronts and historically-significant architecture on the upper floors of buildings is a notable characteristic of this part of Brick Lane. Moreover, as the attractive architectural qualities of the host property would remain, in my view the proposal would not undermine the character or appearance of its host property.
18. With respect to the colour scheme of the proposal, it is recognised that the bold and strident colouring, which would cover a significant proportion of the frontage, would not be to everyone's taste. However, considering the extraordinarily wide range of colourings present on nearby shopfronts, and that the array of colouring on the frontage would be complementary to the unit's function as a restaurant and bar, it would not appear out-of-place in its context.
19. I observed that there is no one dominant style of shopfront in the vicinity of the appeal site. Indeed, a diversity of style and visual aesthetic is the predominant characteristic of the local area. Considering this, the proposed new shopfront would blend acceptably with the existing eclectic street scene.
20. Taking all of the above into account, I find that the proposal would not harm the character and appearance of the host property or the surrounding area,

including the conservation area, and that it would not harm the significance of the conservation area as a designated heritage asset. Thus, the character and appearance of the conservation area would be preserved.

21. Accordingly, the proposal would comply with Policies S.DH1, S.DH3 and D.DH9 of the Tower Hamlets Local Plan 2031 (adopted 2020), which collectively provide that, amongst other things, proposals must preserve or, where appropriate, enhance the borough's designated and non-designated heritage assets in a manner appropriate to their significance, and with Policies D4, D8 and HC1 of The London Plan which collectively provide that, amongst other things, development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. It would also comply with the guidance given in the Character Appraisal which seeks to preserve the character and appearance of the conservation area.

Conditions: Appeal A

22. The Council did not provide a list of suggested conditions. Nevertheless, I have had regard to the need for conditions to be imposed. I have considered the advice on conditions set out in the Framework and the Planning Practice Guidance. A condition is necessary, in the interests of clarity and enforceability, setting out the approved plans. I have not imposed a condition requiring the control of the external materials since sufficient detail thereof is shown on the approved plans which are covered by a separate condition.

Conclusion: Appeal A

23. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, I conclude that the appeal should be allowed.

Reasons: Appeal B

Amenity

24. Whilst amenity is not defined exhaustively within the Regulations, it does indicate that relevant factors include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest. The Planning Practice Guidance states that in assessing amenity, the local planning authority would always consider the local characteristics of the neighbourhood: for example, if the locality where the advertisement is to be displayed has important scenic, historic, architectural or cultural features, the local planning authority would consider whether it is in scale and in keeping with these features.
25. The significance of the conservation area, as a whole, as a designated heritage asset is detailed in the Brick Lane and Fournier Street Conservation Area Character Appraisal and Management Guidelines (adopted 2009) (Character Appraisal) which mentions that the conservation area is one of the most important historic areas in London, with a rich history and significant architecture, and that it is home to a diverse mix of fashion, art, entertainment, retail and start-up businesses. The Character Appraisal also refers to the vibrant, mixed-use character of Brick Lane, which contributes to its significance.

26. Additionally, the Character Appraisal notes that competitive on-street advertising is an enduring characteristic of Brick Lane. In this regard, I observed that there is a great variety of commercial operators in the vicinity of the appeal site, and that a mix of illuminated signage on nearby shopfronts is evident, including those with built-up lettering. In this context, the proposed illuminated fascia and the 2 backlit menu signs would not appear out-of-place.
27. Furthermore, these elements of signage would not be excessive in terms of their size and they would be sensibly positioned such that the legibility of the upper floors of the host property would remain and its visual architectural interest would be preserved. Accordingly, these elements of the proposal are acceptable in terms of amenity.
28. In accordance with Regulation 3(1) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) (the 2007 Regulations), Policy D.DH10 of the Tower Hamlets Local Plan 2031 (adopted 2020) (Local Plan) is material to this appeal. That policy provides that, amongst other things, within conservation areas, advertisements, signage and hoardings need to complement the special character of the area and: a. will not be supported above fascia or ground level; b. should be externally illuminated; and, c. projecting or hanging signs will be restricted to one per frontage.
29. The proposed 2 illuminated projecting hanging signs, as a group, would not comply with any of those criteria. Moreover, the strident and prominent white fret-cut lettering proposed would be emphasised by the illuminated nature of the signs. As such, in their proposed location above the ground floor, they would detract from the traditional architectural details found on the host property. I observed all the backlit fascia and illuminated projecting signs as identified by the appellant and I note that projecting signs above ground floor level, at the large size proposed, are not common nearby. The proposed signs would be highly visible in the street scene. Therefore, the 2 illuminated projecting hanging signs proposed, in combination, would appear overly-dominant in the street scene.
30. I therefore find that the proposed 2 illuminated projecting hanging signs would have an unacceptable and harmful effect on amenity, and that they would harm the significance of the conservation area as a designated heritage asset. In this respect, the character and appearance of the conservation area would not be preserved.
31. In accordance with Regulation 3(1) of the 2007 Regulations, material to my findings are Policies S.DH1, D.DH2, S.DH3, D.DH9 and D.DH10 of the Local Plan which collectively provide that, amongst other things, proposals must preserve or, where appropriate, enhance the borough's designated and non-designated heritage assets in a manner appropriate to their significance, as are Policies D4, D8 and HC1 of The London Plan which collectively provide that, amongst other things, development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. For the reasons given above, with respect to amenity, these elements of the proposal would conflict with those policies.
32. For the reasons given above, I find that the proposed illuminated fascia and 2 backlit menu signs would be acceptable in terms of amenity, and that they would not harm the significance of the conservation area as a designated

heritage asset. In this respect, the character and appearance of the conservation area would be preserved. In accordance with Regulation 3(1) of the 2007 Regulations, material to my findings are Policies S.DH1, D.DH2, S.DH3, D.DH9 and D.DH10 of the Local Plan, as are Policies D4, D8 and HC1 of The London Plan, which are summarised above. For the reasons given above, in relation to amenity, these elements of the proposal would comply with those policies.

Public safety

33. The Council have stated that it has not been made clear that the proposed signage would be safe for its location above the footway, and have referred to the lack of both an oversail licence and a technical submission. However, an oversail licence is a matter covered by other legislation. The proposed 2 illuminated projecting hanging signs would oversail the footway but they would be positioned at a sufficient height such that no conflict with pedestrians on the footway would occur. As such, I find that the proposal would have an acceptable effect on public safety.
34. In accordance with Regulation 3(1) of the 2007 Regulations, material to my findings is Policy D.DH10 of the Local Plan which provides that, amongst other things, proposals for advertisements, hoardings and signage will be supported where they demonstrate how they do not adversely affect public or highway safety or impede pedestrian access, including for those with visual impairment or impaired mobility, as is Policy D8 of The London Plan which provides that, amongst other things, development proposals should ensure that the public realm is safe. For the reasons given above, with respect to public safety, the proposal would comply with those policies.

Other Matters: Appeal B

35. The appellant has referred to other considerations, including the need for the proposed signage to promote the business and ensure its survival in a difficult economic climate, and in a highly competitive market. However, the 2007 Regulations make clear that advertisements should be subject to control only in the interests of amenity and public safety. The appeal has been assessed on this basis. Therefore, all the other considerations raised do not change my findings on the main issues in this appeal.

Conditions: Appeal B

36. In relation to the advertisements allowed in this appeal, I have attached the 5 standard conditions set out in the Regulations. Taking account of the discrepancy between the plans referred to at paragraph 6 (above), I have also attached a non-standard condition setting out the approved plans, in the interests of certainty.

Conclusion: Appeal B

37. Although I have found that the proposed 2 illuminated projecting hanging signs would be acceptable with respect to public safety, this does not overcome the harm identified with respect to amenity. The proposed 2 illuminated projecting hanging signs are clearly severable, both physically and functionally, from the proposed illuminated fascia and 2 backlit menu signs. Therefore, for the reasons given above, I have issued a split decision, dismissing the appeal insofar as it relates to the proposed 2 illuminated projecting hanging signs, but

allowing the appeal insofar as it relates to the display of the proposed illuminated fascia and the 2 backlit menu signs.

Alexander O'Doherty

INSPECTOR