



Appeal Decision

Site visit made on 10 November 2021

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2022

Appeal Ref: APP/A5840/W/21/3278522

88A Tooley Street, London, SE1 2TF

- 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 Global Street Art against the decision of the London Borough of Southwark.
 - The application Ref 21/AP/0986, dated 19 March 2021, was refused by notice dated 14 May 2021.
 - The advertisement proposed is use of flank wall of building for display of hand painted murals with living green wall to remaining wall area (resubmission of refused application 20/AP/1105).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is a resubmission following the dismissal of an appeal relating to a refused application¹. The current proposal differs in that it would cover a smaller area of the flank wall, 9m in height and 5m wide. A living green wall would be provided alongside; this feature was introduced as an amendment during consideration of the application.

Main Issue

3. The main issue is the impact of the advertisement on the area's visual amenity.

Reasons

4. The appeal relates to a 4-storey building that faces Tooley Street with a plain flank wall facing an open public plaza alongside Bermondsey Street. The plaza is bound to the west by arches to a railway viaduct and to the south terminates at a railway bridge over Bermondsey Street. It contains seating, bike stands and landscape planters and forms part of a busy and vibrant commercial area close to an entrance to London Bridge Station.
5. The site falls within sub area 2, Tooley Street West, of the Tooley Street Conservation Area (TSCA) in which the Conservation Area Appraisal comments, *"Tooley Street takes on a more relaxed character. There is more pedestrian space, traffic is less intrusive, and occasional street trees soften the impact of buildings, while contributing with them to the scale of the street. In this visually less intense environment, buildings can stand out from the background for their detail"*.

¹ Application 20/AP/1105 and Appeal APP/A5840/W/21/3257302

6. The significance of the TSCA in respect to the proposal relates to the quality of the plaza and the architectural and other detailing of buildings and structures that enclose it. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires in relation to any buildings or other land in a conservation area, that special attention be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 199 of the National Planning Policy Framework (the Framework) requires great weight to be given to the conservation of heritage assets, even when any harm is less than substantial to its significance.
7. The mural display would be significantly reduced in scale being just 42% of the size previously proposed according to the appellant's calculations. But with a height of 9m, and raised above ground level, the mural would still be a high and conspicuous feature. The location of the mural on the flank wall to a relatively isolated building facing directly along the length of the plaza and at right angles to Bermondsey Street would make the mural a prominent feature. The mural's height and presence would result in an incongruous feature in relation to the lower and smaller adverts and art work within the railway arches, on shop fascia signs and on a substation at the far end of the plaza.
8. The appellant points out that the mural would be changed on a regular basis, that it would be non-illuminated and that only 6% of the area (some 3.24 sqm) would include logos and/or copy text in relation to advertisement branding, matters which could be controlled by planning conditions. Even at this reduced scale, the branding would be noticeable to passing pedestrians and there would be an awareness of its association with the larger image. I also concur with the view of the previous Inspector that the remaining area *"could convey imagery, colours or a design other than logos or copy text that could still be identifiable as advertising"*. A condition limiting the overt advertising content to 6% would not therefore necessarily be effective in limiting the advertising impact.
9. The mural would not be readily seen from Tooley Street which forms the spine to the TSCA but its dominance within sub area 2 and from the plaza would adversely affect the conservation area as a whole. The hand painted nature of the advertisement and the limited duration of each display would not diminish the impact arising from its siting and scale on the immediate facing area.
10. The harm would be less than substantial to the significance of the TSCA. Paragraph 202 of the Framework requires such harm to be weighed against public benefits including where appropriate, securing its optimum viable use. There is no suggestion that the mural is essential to maintaining the viability of the ground floor commercial use at 88a Tooley Street. I acknowledge that murals and similar artwork have visual and social benefits in urban settings and can contribute to community cohesion and sense of place. Furthermore, the proposed green wall would introduce environmental benefits in terms of both biodiversity enhancement and pollution mitigation. It was suggested as an improvement to the proposal by the Council's Conservation Area Advisory Committee. But these benefits would not outweigh the great weight to be given to the conservation of heritage assets as required by the Framework.
11. My findings are that the proposed advertisement would have a noticeable detrimental impact on the visual amenity of the immediate area and on the TSCA. It would not therefore satisfy the requirement to preserve or enhance the character or appearance of the conservation area.

12. The Town and Country Planning (Control of Advertisements) Regulations (2007) state that advertisement controls are exercisable only in terms of amenity and public safety taking account of material factors such as the provisions of the development plan in so far as they are material. There is no suggestion by any party that the proposal would impact public safety, but for the reasons outlined it would be detrimental to visual amenity. There would also be conflict with Policies D4 and HC1 of the London Plan (2021), Policies 12 and 13 of the Southwark Core Strategy (2011) and Saved Policies 3.23, 3.12, 3.13, 3.15, 3.16 and 3.18 of the Southwark Plan (2007) inasmuch as they pertain to amenity considerations relating to advertisements.

Other Matters

13. I have noted the representations in support of the proposal considering that the mural would add vitality to the facing area, but this benefit would not outweigh the harm I have identified.
14. The appellant has referred to a fallback position under Part 2 Class (c) of the Town and Country Planning (General Permitted Development) Order 2018 which enables "*the painting of the exterior of any building or work*". A mural without advertising content could thereby be displayed on the whole flank wall under permitted development allowances. This could be larger than the mural in the appeal proposal but with the absence of advertisement content it would be less harmful as a 'fallback'. It therefore does not carry weight in the appeal's determination.
15. Reference is made to dialogue with the Council on a possible collaboration to display a community-led mural design on the wall. Such an arrangement would enable management measures to be agreed in relation to maintenance and removal of graffiti. The inclusion of such measures within a planning condition on the proposal therefore carries limited weight. Similarly, the use of a planning condition to require the wall to be painted a neutral colour when not in use as an advertisement carries limited weight in relation to the harm identified when it is being used for advertising purposes.
16. I have noted the examples of sponsored mural's elsewhere with limited inclusion of logos or copy submitted by the appellant, but these do not allay my concerns on how the wall could be used. I have not been presented with details relating to these other side and moreover, I have considered the current proposal on its own planning merits.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

Rory MacLeod

INSPECTOR