



Appeal Decision

Site visit made on 21 November 2022

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th December 2022

Appeal Ref: APP/X5990/Z/22/3306485

18 James Street, Marylebone, London W1U 1EQ

- 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 Mr Akash Rajput against the decision of City of Westminster Council.
 - The application Ref 22/03018/ADV, dated 5 May 2022, was refused by notice dated 13 July 2022.
 - The advertisement proposed was originally described as add new advertisement items; Add an internally illuminated poster box on to the existing wall next to the entrance, add a 600 x 600 x 150mm, internally illuminated projecting sign fixing on to the existing wall at high level. Add a mobile A-line board (640 x 1040 H) on the street.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal the appellant has submitted amended plans. These have sought to address the Council's reason for refusal by relocating and reducing the size of the projecting sign and relocating and redesigning the A-board sign. However, the appeal process should not be used to progress alternatives to a scheme that has been refused. If I were to determine the appeal based on the alternative plans, it is possible that the interests of parties who might wish to comment would be prejudiced¹. In the interests of fairness and natural justice, I have therefore considered the proposal based on the plans submitted to and determined by the Council. It would still be open for the appellant to pursue an alternative scheme directly with the Council.

Main Issues

3. The main issues are the effects of the proposed advertisements on the visual amenity of the area and on public safety.

Reasons

Visual Amenity

4. The appeal site is located along James Street, a busy commercial street off Oxford Street within the Stratford Place Conservation Area (CA). The street is characterised by 19th century terraces and contains numerous food and drink establishments with awnings and parasols covering external seating areas. This gives the street a distinctly vibrant quality.

¹ Annex M of the *Procedural Guide Appeals – England* advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

5. The footway also includes several trees, lampposts, seating, and bollards giving it a somewhat cluttered feel. In this context, the introduction of a mobile A-line board, with its thickness, size and positioning in a prominent position along the footway would unacceptably add to the visual clutter.
6. Hanging signs are common above the ground floor units along the street. However, they are not common for upper floors. The proposal would add a third hanging sign above the door of No 18. The positioning of multiple hanging signs on this façade near each other would appear somewhat disorderly. This would be exacerbated by the thickness and massing of the sign and its internal illumination. In this regard, it would be a visually discordant feature that would be out of keeping with the character and appearance of the CA.
7. I therefore find that the proposed advertisements would have a harmful effect on the visual amenity of the area. The Council has cited Policies 38, 39 and 43(G) of its City Plan (2021) (CP) in its first reason for refusal. The Regulations require that decisions are made only in the interests of amenity and public safety. Consequently, although I have taken these policies into account, they have not been decisive in my determination.

Public Safety

8. The proposed A-board would be positioned at the edge of the unconstrained area of pavement and would project slightly beyond the adjacent tenant's barrier. The footway available for use by pedestrians is not particularly wide along this section of the street. Moreover, given the busy nature of the street, even small incremental changes that reduce the available footway would have the potential to cause pedestrians to step into the road. Such a scenario would be prejudicial to the safety of those pedestrians. Moreover, I also recognise that this would make it more difficult to clean the footway. On its own this would not be determinative, nonetheless, it exacerbates the harm.
9. I therefore find that the positioning and size of the proposed A-board would have a harmful effect on public safety. My attention has been drawn to Policies 25 and 43(D) of the CP. For the reasons previously stated, whilst I have taken these policies into account as material considerations, they have not been decisive in my determination of this appeal.

Conclusion

10. For the reasons given above, the appeal is dismissed.

Mr R Walker

INSPECTOR