



Appeal Decision

Site visit made on 21 June 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2023

Appeal Ref: APP/X5990/Z/23/3316719

17-19 Leicester Square, London WC2H 7LE

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations) against a refusal to grant express consent.
 - The appeal is made by Mr Nick Lawson - Soho Estates Ltd against the decision of City of Westminster Council.
 - The application Ref 22/07816/ADV, dated 16 November 2022, was refused by notice dated 14 February 2023.
 - The advertisement proposed was originally described as 'The displays on the two approved advertising screens to be a combination of static poster advertising with limited movement'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Regulations and the National Planning Policy Framework (the Framework) both make it clear that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts. Whilst the Council has drawn my attention to the policies it considers relevant to this appeal, and I have taken them into account as a material consideration, the Council's policies have not, by themselves, been decisive.
3. In considering the appeal, I have had regard to the more detailed description of the proposal referred to in the appellant's appeal submission which states 'Display of a combination of static and moving content on the two approved LED illuminated digital advertising screens at first to roof levels, one to the Leicester Square frontage and one to the Bear Street frontage, each measuring approx. 13.2m x 3.64m'.

Main Issue

4. The main issue is the effect of the proposal on the visual amenity of the area.

Reasons

5. The appeal site is located within the Leicester Square Conservation Area (CA). The CA is highly commercial and is characterised by its various entertainment, leisure and retail venues. It is particularly well known for its links to cinema with large building forms arranged around the square. The cohesiveness of the built environment is integral to the CA's significance. There are a significant number of illuminated and non-illuminated advertisements in the vicinity of Leicester Square and where these are of a similar scale and nature this makes

- a positive contribution to the order and consistency of the street scene and helps to preserve the significance of the CA.
6. I have a statutory duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and the setting of Listed Buildings. The Framework requires great weight to be given to the conservation of designated heritage assets and that any harm to an asset should require clear and convincing justification. The Framework also says that the quality and character of places can suffer when advertisements are poorly sited and designed.
 7. The digital advertising screens would be the same size and positions on the building as those allowed under the previous appeals¹. The digital advertising screens allowed in those instances are now in situ and represent a fallback position to which I attach significant weight.
 8. The Inspector dealing with the previous appeals noted the significant number of existing high level advertisements in the area, including large digital screens. On my site visit, I noted that there was general consistency in terms of the high level advertisements in the vicinity of Leicester Square mainly displaying static images. The existing digital advertising screens on the appeal site are also consented on this basis and the static images displayed are conditioned not to change more frequently than once every 10 seconds. Consequently, the advertisements currently displayed sit comfortably within their surrounding context.
 9. However, the introduction of 'some quirky movement' 'whereby a character, object or element is animated or a product being advertised is exaggerated and can shake or flicker' would be at odds with the subtle imagery more commonly displayed within the vicinity of Leicester Square. As the moving content would occupy up to 50% of the screen and given the tall and elevated position of the advertising screens, such animated content would be conspicuous and would detract from the order and general consistency of the street scene.
 10. The appellant has drawn my attention to advertisement consents at the Odeon Cinema² and Capital Radio³ buildings which do not explicitly prohibit moving content. However, I do not have enough details before me to know whether moving content was envisaged or specifically applied for within those respective applications. I am also unaware of the period of time for which consent was sought in those instances. Therefore, it is unclear whether it would be an enforcement matter in those instances if moving content was to be displayed. At the time of my site visit, the advertisements displayed on those buildings were of a static nature and this contributed to the prevailing characteristics of Leicester Square. Therefore, the consents on these neighbouring buildings do not alter my findings.
 11. A condition allowing for 'trial run' of the proposals would not overcome my specific concerns in respect of the effects of the proposal.
 12. I conclude, the inclusion of moving content on the digital advertising screens would have a harmful effect on the visual amenity of the area. As such, the

¹ Appeal Refs APP/X5990/Z/21/3281491 & APP/X5990/Z/3282311

² LPA Ref 12/06961/ADV

³ LPA Ref 15/03684/ADV

proposal would also be contrary to Policies 38 (Design principles), 39 (Westminster's heritage), 40 (Townscape and architecture) and 43 (Public realm) of the City of Westminster City Plan (2021) which require sensitive design, for regard to be had to character and appearance of the existing area, the preservation or enhancement of the CA and for advertisements to make a positive contribution to amenity including in terms of local context and the street scene. These policies therefore seek to protect amenity and so are material in this case.

13. For the same reasons, the proposal would be contrary to the provisions of paragraph 136 of the Framework and would also conflict with the statutory duty under s72 to preserve or enhance the character or appearance of the CA.
14. For the reasons given, the appeal is dismissed.

M Russell

INSPECTOR