
Appeal Decision

Site visit made on 30 October 2023

by Jonathan Hockley BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd November 2023

Appeal Ref: APP/X5990/H/23/3321186

Turner House, Great Marlborough Street, City of Westminster, London W1F 7HS.

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a failure to give notice within the prescribed period of a decision on an application for express consent to display an advertisement.
 - The appeal is made by Diageo Great Britain Limited against City of Westminster Council.
 - The application Ref 22/07553/ADV is dated 7 November 2022. The advertisement proposed is a white flagpole and flag.
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Decision

1. The appeal is allowed and express consent is granted for the display of the white flagpole and flag 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 and the following additional condition:
 - 1) The flagpole hereby permitted shall have a white matt finish.

Procedural Matters and Main Issue

2. The appeal is made against the non-determination of an application for express consent to display an advertisement. The Council have confirmed that they would have refused the application had they been able to, and I have considered their draft decision letter, which details three potential reasons for refusal, as their decision which they would have taken.
3. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) requires that decisions be made only in the interests of amenity and public safety. The Council's draft reasons for refusal consider that the proposal would harm the appearance of the host building and the area, including the setting of nearby Conservation Areas and the grade II listed 19-21 Great Marlborough Street and the Grade II* listed London Palladium. None of the reasons are based on public safety grounds and based on all that I have seen and read I see no reason to disagree with this.
4. Bearing the above in mind I consider the main issue in this case to be the visual effect of the proposed flagpole and flag upon the character and appearance of the host building and the area, including upon the setting of the nearby Soho and Regent Street Conservation Areas (CA) and the setting of the

grade II listed 19-21 Great Marlborough Street and the Grade II* listed London Palladium.

Reasons

5. 16 Great Marlborough Street lies on the north side of the street and is a large 5 storey modern building faced in grey stone. The property is in commercial usage as offices, with a bar/shop occupying some of the ground floor. The proposed flagpole would be sited at the centre of the property, at the first-floor slab level (which visually splits the double height ground floor). The flag will generally be a simple black and white affair advertising the building's occupier but, from time to time, may also be a Union flag.
6. To the left of the property lies 19-21 Great Marlborough Street, an elaborate Grade II listed Portland stone former court. This building is currently a hotel and has three flagpoles sited at mid-level of the first floor of its façade. A further flagpole is sited on the roof. The right-hand side of the building, immediately adjacent to the site, forms the boundary of the Soho CA. On the left-hand side of No 19-21 is sited the boundary of the Regent Street CA and the rear stage door entrance of the Grade II* listed London Palladium. This rear entrance of the Palladium is far less visually arresting than the façade of the building (located on Argyll Street) and has a fairly plain functional grey exterior. Adjacent to the Palladium is the Art deco/Moderne Grade II listed 1-4 Argyll Street, a seven/eight storey corner building faced in polished black granite.
7. On the other side of Argyll Street lies 224-244 Regent Street, a Grade II listed Portland Stone corner building currently in retail use. At the time of my visit this property had a white flagpole in place above the ground floor advertising the retail premises below. This building lies opposite the Grade II listed 208-222 Regent Street, and on the left hand side of this building, the Grade II* listed Liberty department store. This building, dating from the early 1920s but constructed in Tudor style with black timber framed façade onto Great Marlborough Street, is possibly one of the most iconic (in design terms) shops in London. Three flagpoles are sited on Liberty facing Great Marlborough Street. Opposite 19-21 Great Marlborough Street I noticed a public house on the corner of the street and Carnaby Street, with two large flagpoles sited on its frontage.
8. The area therefore has a bustling character with a mix of uses, including retail, commercial/offices, restaurants and hotels. There is a wide range of architectural styles in the vicinity, with the quality of the area considerably enhanced by the buildings within it (including the listed buildings described above). As is common in such a commercial area, advertisements are frequent in the locality, including flagpoles and flags such as those stated above.
9. In such a context the proposed flagpole and flag would not appear out of place or unduly prominent, and would be set at a similar height as flags on nearby buildings. The height, size, design of the flag, and central siting of the flagpole would be reasonably sited and designed and would not harm the character of the building or the setting of the nearby CAs or listed buildings and the size of the proposed pole and flag would also be appropriate to the character and the quality of the area.

10. The Council refer to their former Local Plan, which allowed for exceptions for flag installations for hotels, department stores, embassies and cultural institutions. Even allowing for the fact that this plan does not seem to be extant anymore, the flagpole at 224-244 Regent Street does not appear to be sited on a building such as described.
11. While I note that the Council state that the flags on the opposite pub have not been authorised, the proposal in this case would share many characteristics with the existing flagpole located on the nearby Great Marlborough Street elevation of 224-244 Regent Street and would not be dissimilar to those on the adjacent Grade II listed 19-21 Great Marlborough Street. The proposal would be in scale and in keeping with these features, and those of the wider area. The single flagpole proposed would also ensure that the scheme would not create visual clutter.
12. I have taken into account policies 38(B), 39 (K) and 43 (G) of the City of Westminster City Plan 2019-2040 (April 2021). When read together these policies seek to protect the amenity of the City's streetscape, the character and appearance of CAs and state that signs and advertisements will make a positive contribution to amenity by being sensitively designed. They are therefore material in this case. Given I have concluded that the proposal would not harm amenity, the proposal does not conflict with these policies.
13. I therefore conclude that the proposed flagpole and flag would not harm amenity and would not have an adverse visual effect upon the character and appearance of the host building and the area, including upon the setting of the nearby Soho and Regent Street CAs and the settings of the grade II listed 19-21 Great Marlborough Street and the Grade II* listed London Palladium.
14. The consent is therefore granted, and is subject to the five standard conditions set out in the Regulations. I have also imposed an additional condition; while the application form and details states that the flagpole will be white, the submitted Street Flag proposals document (dated 29.09.22) states that the pole will be black. This would be contrary to other nearby examples and would I consider be unduly prominent. For the avoidance of doubt I have therefore imposed a condition to ensure that the flagpole is white, as stated on the application form and the proposed flag signage details plan.

Jon Hockley

INSPECTOR