



Appeal Decision

Site visit made on 5 January 2024

by N Perrins BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/Q1445/Z/23/3330367
107 Church Road, Hove BN3 2AF

- 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 Rob Weller of Pizza Express against the decision of Brighton & Hove City Council.
 - The application Ref: BH2023/00562, dated 24 February 2023, was refused by notice dated 3 August 2023.
 - The development proposed is display of 2no internally illuminated fascia text signs, 1no externally illuminated projection sign, 1no non-illuminated roundel behind glazing, 1 no internally illuminated delivery sign behind glazing and 1 non-illuminated awning (retrospective).
-

Decision

1. The appeal is dismissed insofar as it relates to the 1 non-illuminated awning. The appeal is allowed and express consent is granted for the display of 2no internally illuminated fascia text signs, 1no externally illuminated projection sign, 1no non-illuminated roundel behind glazing and 1 no internally illuminated delivery sign behind glazing as applied for. The consent is for five years from the date of this decision and subject to the five standard conditions set out in the Regulations and the following additional conditions:
 - 1) The illumination of the advertisement hereby approved shall be non-intermittent.
 - 2) The degree of illumination for the signs hereby approved shall not exceed 300 candelas per square metre.
 - 3) The 'Pizza Express' roundel behind glazing hereby approved shall not be illuminated at any time.

Preliminary Matters

2. I have used the description of development from the Council's decision notice as it more succinctly reflects the appeal proposal. I note that additional plans were submitted through the course of the original planning application, which I have considered along with the other information before me in making my decision.

Main Issues

3. Advertisements such as those subject of this appeal are to be considered with regard to their impact on amenity and public safety. The reason for refusal

does not raise any concerns with the proposal, subject to conditions, in respect of its impact on public safety and there is no evidence before me to conclude differently on this point. Amenity is not defined in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 but is usually understood to mean the effect on visual and aural amenity in the immediate area. Therefore, the main issue in this appeal is effect of the advertisement on the visual amenity of the area.

Reasons

4. The appeal site is a Grade II listed building within the Avenues Conservation Area and adjacent to the Willet Estate Conservation Area. The appeal site is part of a terrace of buildings being used for a mix of residential and office on upper floors and shops and restaurants on the ground floor. The ground floor subject of this appeal is in use as a restaurant.
5. Section 66(1) of the Listed Buildings and Conservation Areas Act 1990 (the Act) requires special regard to be had to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess. Section 71 of the Act requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of conservation areas. Section 16 of the National Planning Policy Framework (the Framework) sets out the provisions for protecting designated heritage assets such as those affected by the appeal proposal. Paragraph 205 of the Framework confirms that great weight should be given to conserving the significance of a designated heritage asset.
6. The listing for the terrace that the appeal site is part, sets out its special significance with reference to specifically described architectural features. I observed on my site inspection that the listed terrace including the appeal site has high quality architecture and detailing that forms an important part of the special character and appearance of the street scene on and around the appeal site.
7. I understand from the information before me that the advertisement works subject of this appeal have been completed. There is no dispute between the parties over the form and appearance of the replacement fascia, projecting sign, roundel sign and 'delivery / collection' sign. I agree that the aforementioned signage has been designed sensitively in terms of their scale and appearance and blend in successfully with the building and immediate surrounding area and cause no harm to heritage assets. In terms of the illuminated elements of the proposal, I note that there other examples of similarly low-level illuminated that exist within the conservation areas without causing harm. I therefore agree that the proposed illumination, with sufficient controls secured by condition, can exist without causing harm to heritage assets.
8. Turning now to the awning, it projects from the fascia to provide a cover to the pavement seating area immediately outside the appeal site. I have considered the information provided by the appellant including plans and photos, which help to show the awning details both when open and retracted. From this information it is evident that whilst it performs a practical function for the outside seating area, the awning when open does conceal some of the listed building's architectural features including the tops of the window openings and

the central pilasters. The obscuring of these important architectural features detracts from the special appearance and character of the listed building as well as the conservation area, resulting in clear harm to heritage assets. As the awning does not completely obscure all the listed features and can be retracted, I conclude that the proposal has less than substantial harm to the aforementioned heritage assets. The less than substantial harm from the proposal does, however, result in clear harm to the visual amenity of the area.

9. To conclude, I have found that the proposal by virtue of its harm to heritage assets and resultant impact on the visual amenity of the area does not comply with policy CP15 of the Brighton & Hove City Plan Part One adopted 2016 (the Local Plan Part 1), which requires development to conserve or enhance the city's built heritage and its settings. The proposal is also contrary to policies DM24, DM26 and DM27 of the Brighton and Hove City Plan Part Two adopted 2022 (the Local Plan Part 2), which expects development to demonstrate a high standard of design, requires advertisements to be sensitively designed and not harm visual amenity or the significance of heritage assets. The proposal also conflicts with the Council's Advertisements Supplementary Planning Document 2007, which advises that advertisements should not harm the amenity of the locality.

Other Matters

10. I have considered the proposal with regard to the requirements of policies DM26 and DM27 that require compliance with the Framework in circumstances where less than substantial harm to heritage assets exists. Paragraph 208 of the Framework requires less than substantial harm to be weighed against public benefits. In this case, no public benefits from the proposal have been identified by the appellant as they consider that no harm exists. Notwithstanding this, I consider that there would be a public economic benefit from the restaurant providing a covered seating area to help maintain a viable business and sustain jobs within the city centre. That said, the outside area only has a limited number of covers and can still be used in good weather conditions without the awning, which limits the weight that can be given to this potential public benefit. For this reason, and due to the absence of any other presented public benefits, I conclude that the less than substantial harm identified has not been outweighed sufficiently to enable the grant of advertisement consent for the awning part of the proposal.

Conditions

11. In addition to the standard conditions, I consider that the three additional conditions the Council attached to its decision notice are necessary to control illumination and safeguard the character and appearance of the area. Specifically, Condition 6 is necessary to make clear that the signage that includes illumination shall be non-intermittent. Condition 7 is necessary to make clear that the illumination does not exceed 300 candelas per square metre. Condition 8 is necessary to ensure that the roundel signage is not illuminated. In view of the heritage assets relevant to this site, these are important controls and have included them as conditions in this decision.

Conclusion

12. For the reasons given above, and taking account of all material considerations, I conclude that a split decision is appropriate and the 2no internally illuminated

fascia text signs, 1no externally illuminated projection sign, 1no non-illuminated roundel behind glazing and 1 no internally illuminated delivery sign behind glazing are granted advertisement consent. The non-illuminated awning part of the appeal is dismissed as it is not consistent with the development plan and there are no material considerations that would lead me to a different conclusion.

N Perrins

INSPECTOR