



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: 31.01.2024

Appeal Ref: APP/Q1445/Z/23/3332241
123-126 Kings Road, Brighton BN1 2FA

- 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 T Guest of Guest Leisure against the decision of Brighton & Hove City Council.
 - The application Ref: BH2023/02058, dated 9 June 2023, was refused by notice dated 23 October 2023.
 - The advertisement proposed is the display of temporary non-illuminated three side wrap-around scaffolding shroud.
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Decision

1. The appeal is allowed and temporary consent is granted for the display of temporary non-illuminated three side wrap-around scaffolding shroud as applied for. The temporary consent is for two months 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 advertisement hereby granted express consent shall be permanently removed and the use of the site for the display of advertisements will be discontinued by no later than two months from the date of this decision.

Preliminary Matter

2. The description of development differs between that given on the planning application form and the Council's decision notice. I have used in the header above the wording from the Council's decision notice as that more accurately describes the development.

Main Issue

3. The main issue in this appeal is effect of the advertisement on the visual amenity of the area.

Reasons

4. The appeal site comprises a terrace of townhouses that are currently being renovated and altered to amalgamate two hotels in a one new hotel. The site is in the Regency Square and Queenberry Mews Conservation Area. 125 and 126 Kings Road, within the appeal site, are listed buildings at grade II.
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 199 of the Framework confirms that great weight should be given to conserving the significance of a designated heritage asset.

6. I understand from the information provided that the works under underway have required the erection of scaffolding at the site. The three-sided shroud subject of this appeal has been erected around the lower parts of the scaffolding and includes lettering that advertises the forthcoming new hotel. The shroud has a dark background with white and orange lettering on each elevation. It covers mainly the first three floors of the terrace with the scaffolding remaining visible above on the rest of the building subject to the construction works.
7. The site forms part of Brighton's seafront, which comprises various commercial and residential properties laid out in terraced buildings of varying heights. The seafront and its appearance are evidently an intrinsic and important part of the city. The heritage assets that exist along the seafront form an important part of the special character of this part of the city and create both a high quality and sensitive location for development to respond to.
8. The building including its listed parts, when not undergoing development, makes a positive contribution to the conservation area and wider character and appearance of the street scene. The shroud that has been erected is a significant size and highly visible from both east and west directions. Whilst I appreciate that the appellant has sought to minimise visual impact by using muted colours, it remains prominent and visible in the street scene. Furthermore, the shroud does not obviously appear to have been designed to respect or blend in with the special features of the conservation area or listed building.
9. Whilst I recognise that the primary function of the advertisement is to provide a temporary construction hoarding as well as to advertise the forthcoming hotel, its design would not ordinarily be acceptable with regard to the setting of the listed building and the character and appearance of the conservation area. Accordingly, I agree with the Council and comments submitted by the Regency Squares Community group that the shroud by reason of its prominence, size and unsympathetic design does result in harm to the visual amenity of the area due to its impact on the aforementioned heritage assets.
10. I find, therefore, that the proposal does not comply with policies CP12 and CP15 of the Brighton & Hove City Plan Part One adopted 2016 (the Local Plan Part 1), which amongst other things require development to raise the standard of architecture and design and conserve or enhance the city's built heritage and its settings. The proposal is also contrary to policies DM18, DM21, DM24, DM26 and DM29 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 and their settings, take account of the existing character of the area and preserve or enhance the distinctive character and appearance of conservation areas. The proposal also

conflicts with the Council's Advertisements Supplementary Planning Document 2007, which advises that temporary shrouds should not harm the amenity of the locality.

Other Matters

11. The appellant contends that there are public benefits and other material considerations that should be taken into account in this appeal. I have considered these carefully in reaching my decision.
12. In particular, it is a fact that the site is an active construction site where it is reasonable to expect some form of scaffolding and hoarding to be erected. The appellant has provided information that shows the hoarding and scaffolding that was in place before the shroud was erected, which highlights that there would be a temporary impact on the visual amenity of heritage assets with or without the shroud whilst the construction is underway. I note that the appellant considers the shroud protects visual amenity compared to the alternative of not having a shroud. Whilst I am not persuaded that this would categorically be the case, I do agree that the situation would be worse or neutral without the shroud as the scaffolding and related works would be more unsightly were they not screened.
13. It is also important to acknowledge that the development under construction will, from the information before me, result in a positive addition to the hotel offer in the city that will help support the tourist economy, which is a key strategic priority for the area. As also has been pointed out by the appellant, shrouds that include advertisements are a fairly common marketing device that are not out of place in a city centre context such as the appeal site. In this case, the advertisement is intended to ensure the hotel, once opened, can operate successfully and viably from the start of its operation, which will have resultant public benefits to the local economy by creating jobs at the earliest opportunity.
14. Moreover, the shroud has been erected only for a temporary period around scaffolding that is required in order for the proposed new hotel development to be constructed. The appellant has stated that the shroud will be removed by mid-February as the construction will be sufficiently progressed for it to be no longer required. I noted on my site visit that the appeal site is an active construction site, which gives me some confidence that the proposed mid-February 2024 removal date for the shroud as put forward by the appellant will be met. The short amount of time that the shroud is stated to remain in place is a material consideration that I give weight to in this decision.
15. In summary, I have found earlier in this decision that there is harm to visual amenity due to the impact of the development on the relevant heritage assets. I conclude from the information before me that the harm identified is less than substantial harm in view of the temporary nature of the development. I also consider that the harm would be at the lower end of the scale as it would not be permanent and is localised to the site itself for a relatively short period of time.
16. I have also considered the appellant's case in respect of the requirements of policies DM26, DM27 and DM29 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. For the forementioned reasons, I conclude that there are public benefits and other material considerations in this case that outweigh the harm to visual amenity and justify temporary advertisement consent to be granted in accordance with the approach set out in policies DM26, DM27 and DM29 of the Local Plan Part 2 and paragraph 208 of the Framework. It is clear to me, however, that the shroud should be removed as soon as is practicable once construction has been completed and served its purpose in order for visual amenity to be redressed; this should be as close to the appellant's stated mid-February removal date as possible.

Conditions

17. The acceptability of the advertisement is due to its temporary nature along with the public benefits and other material considerations associated with the proposal. Therefore, and in addition to the five standard conditions set out within Schedule 2 of the Regulations, it is necessary to attach a condition to ensure the advertisement is displayed only for a limited period to provide certainty and precision. I have set this timeframe as being two months from the date of this decision, which covers the appellant's stated removal date of mid-February 2024 along with some additional time if needed to ensure the shroud, scaffolding and other associated works can be removed from the site in their entirety.

Conclusion

18. To conclude, the temporary shroud subject of this appeal does result in harm to visual amenity but I have found that there are public benefits and other material considerations that enables the appeal to be allowed subject to conditions.

N Perrins

INSPECTOR