



Appeal Decision

Site visit made on 9 July 2024

by Joanna Gilbert MA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 July 2024

Appeal Ref: APP/E5900/Z/24/3340525

39 Brick Lane, Tower Hamlets, London E1 6PU.

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr Sam Harrison on behalf of King Media Ltd against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/24/00021.
 - The advertisement proposed is display of a static unilluminated shroud advertisement.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although the Council's decision notice refers to illumination, the Council has confirmed that no illumination is proposed. The Council's decision notice also refers to the setting of the Fournier Street/Brick Lane Conservation Area, but it has been confirmed that the site falls within that conservation area. While the decision notice refers to Policy D.DH8 of the Tower Hamlets Local Plan 2031: Managing growth and sharing the benefits (Adopted January 2020) (Local Plan), the Council has confirmed that Local Plan Policies D.DH10 and S.DH3 are relevant instead. As the appellant has referred to these policies in their documents, no unfairness would arise from my consideration of these policies in my decision. I have considered the appeal in light of these matters.

Background and Main Issue

3. The Council refused an earlier application for temporary display of a static illuminated shroud advertisement on 8 December 2023 (Ref: PA/23/01925). This differed from this appeal in terms of its illumination and size, as the earlier application was for an externally illuminated advertisement of 14.5 metres in width by 5.71 metres in height within an illuminated scaffold shroud.
4. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations), paragraph 141 of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) all confirm that advertisements should be subject to control only in the interests of amenity and public safety. PPG paragraph 18b-079-20140306 confirms that amenity is not defined exhaustively in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. It includes aural and visual amenity (Regulation 2(1)) and factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest (Regulation

3(2)(a)). Although the statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) does not apply to this appeal, the setting of a listed building is likely to be a relevant material consideration when considering the effect on amenity.

5. The application was not refused on the basis of concerns about the proposed advertisement's effect on public safety or aural amenity. Consequently, the main issue in this appeal is the effect of the proposed advertisement on the visual amenity of the area, including the Fournier Street/Brick Lane Conservation Area and grade II listed buildings at 10 – 48 Fashion Street.

Reasons

6. The site lies within the Fournier Street/Brick Lane Conservation Area (the conservation area), an area whose significance stems from its considerable historic, architectural and cultural richness, diversity, and complexity. The Brick Lane and Fournier Street Conservation Area Character Appraisal and Management Guidelines (November 2009) (the character appraisal) describes the area's development dating from Brick Lane's development as a field path in open countryside in the 1550s, to its significant urban development in the late 17th century, and its changing transport infrastructure in the 19th century. It further discusses waves of migration with French Huguenots, Eastern European and Russian Jews, and Bangladeshi people bringing different buildings, industries and cultural activities to the conservation area. In the southern part of Brick Lane, the buildings are predominantly three storeys on narrow plots with a tight urban grain, creating a consistent roof line and strong sense of enclosure.
7. Within the character appraisal, reference is also made to the need for the management plan to seek to protect Brick Lane's vibrant, mixed-use character. It notes that spontaneity of development, competitive on-street advertising and creative improvisation of building uses are enduring characteristics, and that these qualities enrich the area's cultural and economic life and attract large numbers of visitors each week. Preserving these qualities, and supporting a rich mix of activities, therefore needs to be carefully and creatively reconciled with protecting the character of buildings and townscape.
8. Close to the site and beyond 50 Fashion Street which adjoins the site, grade II listed 10 – 48 Fashion Street form a coherent group of Moorish style shopping arcade or bazaar buildings along Fashion Street's southern side. Now housing a university, the listed building's significance stems from its historic interest and architectural quality and richness as a group. I am mindful of the Framework's definition of setting as being the surroundings in which a heritage asset is experienced. The Framework also asserts that its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral. In this instance and given the length of the listed building along Fashion Street, the appeal property lies within the foreground or backdrop of the listed building's setting if viewing the listed building from Brick Lane or within Fashion Street.
9. Located at and adjacent to the south-western corner of Brick Lane and Fashion Street within the conservation area and within a District Centre, the site contains a three-storey flat fronted building likely to date from the late 18th century. Formerly used as a public house, the building has two ground floor

- retail units containing part of a takeaway (also at neighbouring 37 Brick Lane) and a hair salon, and residential uses on the two upper floors. The building's upper floors are presently in poor condition externally and maintenance, repair, wind and water tightening works are due to take place.
10. This appeal seeks advertisement consent for a static, unilluminated shroud advertisement measuring 8.1 metres in width by 7.3 metres high on the Fashion Street elevation. This would be within an illustrated scaffold shroud depicting a 1:1 facsimile of the building's upper storeys. The proposed advertisement and shroud would be in place across the building's two upper floors for a period of 33 weeks during the aforementioned works and would shield these works and necessary scaffolding from public view.
 11. PPG paragraph 18b-005-20140306 confirms that buildings which are being renovated or are undergoing major structural work and which have scaffolding or netting around them may be considered suitable as temporary sites for shroud advertisements or large 'wrap' advertisements covering the face, or part of the face, of the building. In all cases, express consent from the local planning authority will be required for these advertisements.
 12. The surrounding area is busy, vibrant and commercial in character with numerous advertisements. Indeed, I note the use of high quality materials, the provision of a 1:1 facsimile of the building, the existence of painted advertising on 50 Fashion Street and other flank wall advertising, and the intention to maintain the proposed advertisement and shroud to a high standard during the works. However, the proposed advertisement would be incongruously large and dominant when viewed from Fashion Street and Brick Lane close to the site. Given its corner location in combination with its height, width and design, and notwithstanding the significant reduction in size and absence of illumination when compared with the previous proposal, and the projecting porches of the nearby housing development, it would be obtrusive and harmful within the setting of the listed building at 10 – 48 Fashion Street and within the conservation area.
 13. Images of scaffolding and generic sheeting at nearby Osborn Street, 48 Brick Lane, 150 - 152 Brick Lane, and 184 Brick Lane were included in the appeal documents. I do not doubt that scaffold shrouds can offer considerable aesthetic benefits in comparison to the varied quality and condition of sheeting evident in the photographs provided, but this does not alter my concerns about the appeal before me. I also note the presence of painted façades on Brick Lane, but these are not representative of the scheme at appeal.
 14. The proposed advertisement would be on site for a temporary period of no more than 33 weeks, but the harm I have found would endure for that period of time. The appellant has advised that the proposed advertisement would be used for artwork from a local institution for artists from marginalised backgrounds for a period of four weeks. While this is supported by a letter from that institution, there is no mechanism before me to secure this and it has not been demonstrated that the proposed advertisement's display can be restricted in this way. The appellant also asserts that the advertisement may only be present for some 50% of the intended display period thereby reducing any effect, but there is no certainty that this would be the case.
 15. Reference has been made to the potential economic benefits of the proposed advertisement and that it would represent sustainable development in line with

the Framework. However, there is no indication in the Framework, the Regulations, or the PPG that such factors can be taken into consideration.

16. I conclude that the proposed advertisement would have a harmful effect on the visual amenity of the area, including the Fournier Street/Brick Lane Conservation Area and grade II listed buildings at 10 – 48 Fashion Street. The Council has referred to Local Plan Policies S.DH3 and D.DH10, as they deal with heritage and the historic environment and advertisements, hoardings and signage respectively. The appellant has also referred to Policies HC1 and D3 of the London Plan 2021, Local Plan Policy S.DH1, and the Framework at paragraphs 141 and 200 – 205 insofar as they deal with advertising, heritage and design.
17. Powers under the Regulations require decisions to be made only in the interest of amenity and public safety, taking account of any material factors. I have therefore taken the aforementioned policies into account insofar as they are relevant to those matters as a material consideration, but they are not a determining factor in this case which I have considered in the light of the Regulations. I have also had regard to Section 72(1) of the Act which asserts that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

Other Matters

18. London Borough of Tower Hamlets Highways have commented on the application with regard to the need for over sail licenses under Sections 177 and 178 of the Highways Act 1980 and CG 300 Technical Approval submission. The Council has not refused the application on this basis, but it would have been necessary for the appellant to resolve any necessary highways licensing as a separate process if I had allowed the appeal.

Conclusion

19. For the reasons given above, the appeal should be dismissed.

Joanna Gilbert

INSPECTOR