
Appeal Decision

Site visit made on 6 February 2016

by Keith Manning BSc (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15/02/2016

Appeal Ref: APP/B4215/Z/15/3140692

43-45 Piccadilly Gardens, Manchester M1 2AP

- 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 Trafalgar Leisure against the decision of Manchester City Council.
 - The application Ref 110212/AOH/2015/C2, dated 30 September 2015, was refused by notice dated 30 November 2015.
 - The advertisement proposed is retention of temporary scaffold shroud screen advertisement measuring 20M X 10M with external illumination & set within a brick mural image for a further period of 12 months.
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Decision

1. The appeal is allowed and express consent is granted for the temporary scaffold shroud screen advertisement measuring 20M X 10M with external illumination & set within a brick mural image. The consent is for 12 months from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:-
 - 1) At the end of 12 months from the date of this decision the advertisement hereby granted consent shall be removed and all associated development shall be removed, any use of the land authorised by this consent shall be discontinued and the land/building shall be reinstated in accordance with a scheme, the details of which shall have first been submitted to and approved in writing by the local planning authority. The approved scheme shall include the timescale for implementation.
 - 2) The advertisement hereby permitted shall accord with the following approved plans, drawings and documents: Location Plan Drawing No: BU-TRAF-001/B, Existing Elevation Drawing No: BU-TRAF-003, Proposed Elevation Drawing No: BU-TRAF-004/B, New Visuals for Revised Drawing No: BU-TRAF-004/B, Additional Site Plan Drawing No: BU-TRAF-002/B, document entitled 'Banner Specification', Document entitled 'Lighting Information' and document entitled 'photographs of Existing Support Scaffold'.
 - 3) The advertisement hereby approved shall, for the duration of the 12 months it is permitted for, be subject to the established scheme for periodically providing details to the local planning authority of the regular maintenance of the site and inspection of the listed building to which the scaffolding is attached. The scheme shall continue to be implemented as approved.
 - 4) The maximum luminance of the display shall not exceed 600cd/m².

Procedural Matter

2. The appeal concerns an advertisement that has already been erected following the grant of express consent on appeal in November 2013¹ for a period of two years, subject to the five standard conditions set out in the Regulations and four additional conditions. Additional Condition 1) required the removal of the advertisement and associated development at the end of a two year period. That has now expired without the advertisement having been removed and I therefore treat the appeal on its merits as an application for retrospective consent.

Main Issue

3. The main issue is the effect of the proposed advertisement on the character and appearance of the area including the Stevenson Square Conservation Area and the adjacent listed building at 97 Piccadilly Gardens.

Reasons

4. The Council alleges conflict with a wide range of development plan policies as well as local guidance documents and the National Planning Policy Framework, as detailed on its decision notice and in the officer's report. However, the Regulations require that decisions be made only in the interests of amenity and, where applicable, public safety. Therefore the policies and guidance alone cannot be decisive. But I have taken them into account as material considerations in my determination of the appeal, as I have taken into account the advice of the Planning Practice Guidance.
5. The advertisement at issue was previously the subject of an appeal hearing on 29 October 2013. I have studied the detailed reasoning of my colleague carefully, both before and after my site visit. I have no reason to depart materially from her overall analysis and conclusions on the general visibility of the advertisement or on its effect on the Stevenson Square Conservation Area or the adjacent listed building, bearing in mind of course that what was clearly anticipated at that time was a strictly temporary effect; pending what was anticipated to be a fruitful outcome of discussions with the Council and a subsequent application to redevelop the site. I have also borne in mind that the interface between this important corner in the conservation area and the adjacent public space in Piccadilly Gardens is currently marred by the paraphernalia associated with works in the highway, presumably being implemented by or on behalf of the City Council. Notwithstanding its undoubted qualities as townscape with heritage significance, the immediate area of the site is plainly in a state of transition; as such areas sometimes have to be.
6. In my view that principle applies also to the appeal site. It is of course preferable that the site, which is vacant and derelict, should be re-developed to a suitably high standard in fairly short order, rather than perpetuating a situation where the prospect of the corner is dominated by what is very evidently a temporary structure screening the raw and exposed side of the listed building on the adjacent plot at 47 Piccadilly Gardens. Long term retention of the advertisement, the hoarding at ground level and the supporting scaffolding is no substitute for a properly conceived redevelopment of the vacant plot and the former circumstance would not ultimately preserve

¹ Ref. APP/B4215/H/13/2202566

the setting of the listed building or the character and appearance of the conservation area, but in that context it does seem to me to be a necessary and acceptable expedient in the short term.

7. It seems from the appellant's statement that discussions with the Council regarding redevelopment have not yet borne fruit in the form of an implementable planning permission. The merits of that situation are not a matter for me, but on any realistic view it has to be recognised that such processes do not always run smoothly according to anticipated timescales. Equally, it seems fanciful to presume that a landowner would forgo the opportunity of the capital value and revenue opportunities that could accrue from a new building on a prime city centre site such as this simply in order to maintain an income stream from a scaffold shroud screen advertisement, lucrative though that may be. The real value of the site when redeveloped should not be obscured by the owner's prudence in seeking to obtain what income may be forthcoming from advertising in the interim. Essentially, that is gist of the letter to the Council of 18 October 2015 in support of the application and the letter of 11 December 2015 in support of the subsequent appeal.²
8. On the other side of the dispute, I have no cogent evidence from the Council to substantiate its assertion that redevelopment is being actively delayed by the very existence of the advertisement, an assertion that is contained within the body of the text explaining its second and third reasons for refusal. Regarding the rationale of the Council's position, I am constrained to rely on what I can glean from the officer's report and, beyond the appellant's explanation as to why negotiations with the Council concerning redevelopment have not yet borne fruit, and hence the reason why a further consent for 12 months only is sought, taking into account an initial delay in implementing the consent granted on appeal³, I have little in the way of explanation at all. Certainly there is no specific evidence to suggest that circumstances are so materially changed that the conclusions of my colleague concerning visual amenity in the context of impending redevelopment are any less valid today than they were at the time of her decision.
9. I acknowledge that the Council may have had unfortunate experiences with other sites but I am obliged to inform my decision by the evidence before me, whereas the officer's report conflates separate considerations with no firm evidence to support the speculation that there is a cause and effect relationship between them. More specifically, it is surmised therein that the prolongation of the advertisement display as proposed... *"could delay potential development due to the income that would be generated from the advertisement, which would cause the site to remain vacant and undeveloped and cause the listed building to further deteriorate"*. This is postulated notwithstanding the recognition that (a scaffold)... *"must remain in place to support the listed building."* It is further postulated that the advertisement remaining in place temporarily as proposed... *"could lead to the further deterioration of the listed building during a further year awaiting refurbishment"*. The Council claims that the listed building has been neglected for at least the past two years despite the owner being aware of its poor and deteriorating condition. And yet the Council has powers to address this if necessary, which are quite unrelated to the acceptability or otherwise of the advertisement at issue in the meantime.

² Both from Trafalgar Leisure

³ Grounds of Appeal - summary

10. It is evident that scaffolding is for the moment a necessary if unsightly mechanism to support the Grade II listed building (originally a townhouse but currently in active use at ground floor level for retailing) at 47 Piccadilly Gardens pending redevelopment of the appeal site, which would quite clearly be an appropriate means of securing permanent and substantial physical support. Moreover, it seems to me that the shroud screen advertisement now temporarily hiding the scaffolding has a less detrimental impact on visual amenity, the setting of the listed building and both the character and appearance of the conservation area than the scaffolding within the vacant site itself would have; and in that sense continues to preserve those attributes, notwithstanding the clear imperative that the site should be redeveloped as soon as this is practicable.
11. My attention has been drawn to the 'Prince of Wales' appeal decision⁴, also cited in the previous appeal concerning this site. But the circumstances addressed by the Inspector in 2004 concerned a different location, albeit nearby, where unauthorised banner advertising seemingly compounded the overall harm to amenity; and I concur with my colleague who previously considered the advertisement now at issue that the appeal decision back then has little bearing on the merits of this case and is certainly no precedent to constrain the outcome. In this instance, in all the circumstances I have been informed of, and having taken all other matters raised into account, I am very clear that, for the reasons I have given, the interests of amenity are best served by the retention for the time being of the advertisement proposed.
12. The additional conditions imposed by my colleague logically hold good, amended as necessary to reflect the temporal circumstances of the current proposal; and on that basis the appeal succeeds.

Keith Manning

Inspector

⁴ Ref. APP/B4215/H/04/1153055