

Appeal Decision

Hearing held on 3 June 2008
Site visit made on 3 June 2008

by David Leeming

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

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Decision date:

16 JUN 2008

Appeal Ref: APP/Q1445/H/08/1202639

46-48 Kings Road, Brighton East Sussex BN1 1NA (Appeal A)

- 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 blowUP media UK Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2007/03924, dated 16 October 2007, was refused by notice dated 13 December 2007.
- The proposal is for a shroud incorporating an externally illuminated open weave mesh advertisement display.

Appeal Ref: APP/Q1445/H/08/1202640

39 Kings Road, Brighton East Sussex BN1 1NA (Appeal B)

- 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 blowUP media UK Ltd against the decision of Brighton & Hove City Council.
- The application Ref BH2007/04175, dated 7 November 2007, was refused by notice dated 3 January 2008.
- The proposal is for a shroud incorporating an externally illuminated open weave mesh advertisement display.

Decision (Appeal A)

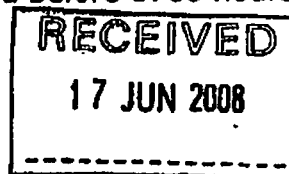
1. I dismiss the appeal in so far as it relates to the original proposal for a shroud incorporating an advertisement display measuring 10m by 10m. I allow the appeal in respect of the alternative proposal, and grant express consent for a shroud incorporating an externally illuminated open weave mesh advertisement display measuring 8m by 8m. The consent is for 6 months commencing on 6 October 2008 and is subject to the five standard conditions set out in the Regulations and the following additional conditions:

(1) The shroud advertisement display shall be permanently removed at the end of the 6 months period of express consent or upon completion of external building works at the premises, whichever is the sooner, unless a further temporary period of consent has been obtained.

(2) Other than the area occupied by the advertisement, the shroud shall at all times depict a full scale representative 1:1 image of the front façade of the appeal premises.

(3) The intensity of the illumination of the advertisement display shall not exceed 600 candelas per square metre.

(4) The advertisement display shall not be illuminated before 0700 hours or after 2300 hours on any day.



Decision (Appeal B)

2. I dismiss the appeal.

Procedural Matters

3. At the hearing the appellants submitted an alternative proposal for Appeal A, reducing the size of the advertisement to comply with the Council's adopted Supplementary Planning Document (SPD) Advertisements (2007) in respect of shroud advertising. With the agreement of the Council at the hearing, I have considered both this and the original proposal in respect of 46-48 Kings Road.
4. Since consent is sought for a period of 6 months only and I am advised that the refurbishment work at 46-48 Kings Road will not start until 6 October 2008, I propose to exercise the power available to me in regulation 14 (8) and specify this date as the date when the period of consent, for the permitted alternative display, begins.

Main issues

5. The main issues in this appeal are the visual impact of the proposed advertisement displays and public safety concerns about their stability in windy conditions.

Reasons - Appeal A

Public Safety

6. The public safety concern, which applies equally to Appeal B, is that, given the particularly high wind speeds that can occur on the seafront, the material from which the shroud advertisements would be made would inhibit the free passage of air, creating a wind sail effect, leading to instability and possible scaffold collapse.
7. In support of their case, the Council refer to safety concerns raised by members of the general public to a former temporary display erected by the appellants on the seafront at 54-55 Kings Road. They also refer to a scaffold shroud advertisement on another site adjacent to the seafront, where a wind sail effect was observed resulting in the collapse of the scaffolding. However, no supporting evidence has been presented documenting the public safety concerns regarding the appellants' former display in question and the appellants advised that they were not informed of any such concerns whilst that display was in place. In the other case, where the scaffolding had collapsed, the appellants' agent advises that the shroud in question (not one erected by the appellants) had not been erected in accordance with the submitted plans. At the hearing, my attention was drawn to other shroud displays that had been erected on the seafront, apparently without any public safety concerns, including one on a clock tower.

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8. The appellants advise that they are a professional company with considerable experience in erecting shroud displays throughout the country, at high level and many being in exposed locations, without concerns about public safety arising from wind being raised previously. I note that it is a requirement, by way of a standard condition in the Regulations, that advertisements shall not be sited or displayed so as (among other things) to endanger persons using the highway. A further standard condition requires that any structure erected for the purpose of the display of advertisements shall be maintained in a condition that does not endanger the public.
9. Taking the above matters together, I am not persuaded by the Council's case that shroud advertisement displays of the type proposed by the appellants would be inherently unsafe in windy conditions experienced along Brighton seafront. On the contrary, given proper professional care in their erection, including the scaffolding, and appropriate maintenance thereafter, I see no reason to believe that they would present any public safety risk at all.

Amenity

10. As to amenity, the site is within the Old Town Conservation Area where section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention must be paid to the desirability of preserving or enhancing the character or appearance of the area. A strict control over the display of outdoor advertisements should therefore be maintained.
11. The proposed shroud advertisement would be fixed to scaffolding during the planned period of restoration work to the building. The erection of scaffolding and the provision of a shroud screen to the upper elevations, whether plain or incorporating an advertisement, would obscure the building and effectively remove any perceived contribution that it currently makes to the street scene. However, the provision of a significant advertisement on such a shroud, displayed above the general level of advertising within the street, would inevitably introduce a feature, albeit intended to be temporary, which would draw particular attention to the frontage and stand out in the surroundings.
12. Whilst the terrace of which the premises form a part contains tall and prominent buildings, the upper elevations generally reflect a domestic scale and appearance. Despite that, the area is predominantly commercial in character and is one where the Council accept, in principle, that suitably sized advert displays on shrouds would comply with their approved advertisement guidelines.
13. The original proposal for 46-48 Kings Road, as illustrated on the appellants' submitted drawing, involves an advertisement display extending across a majority of the upper floors, both in terms of the width and height of the appeal frontage. This advertisement would form about 80% of the total area of the shroud, rather than the maximum area of 50% specified in the SPD. Although, I agree with the appellants that these guidelines should not be prescriptive, they do reflect the considered views of the Council as to what and what is not acceptable in terms of visual amenity. In my view, the display, as originally proposed would, by reason of its size, overwhelm the frontage and appear unduly dominant in views from the seafront.

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14. On the other hand, the alternative proposal would bring the size of the display within that considered acceptable under the Council's SPD guidelines. In my view, the proposed smaller advertisement would not overwhelm the proportions of the frontage and, as an obviously temporary display associated with the refurbishment work, would be acceptable on that basis.

15. The Council have expressed some concern about the impact of the lighting units, by reason of their forward projection and number. Given the smaller size of the alternative display, I understand that the appellants would reduce the number of lights from 4 to 3. However, I do not think that the impact of the lighting units, whether 3 or 4, or their degree of forward projection over the shroud, would be such as to create any material harm to amenity.

16. Having regard to my findings above, I consider that the proposed alternative display would not, as a temporary feature, have such an impact as to materially detract from the character and appearance of the Old Town Conservation Area.

Planning Policy

17. I have carefully considered Policies QD12 and TR7 of the Brighton & Hove Local Plan, to which the Council refer, as well as the SPD referred to above. In the circumstances outlined above, I consider that the alternative smaller sized advertisement proposed at 46-48 Kings Road complies with the Council's policies and guidelines but that, in any event, this alternative display is acceptable and that I should permit it. My decision does not mean that a similar advertisement displayed in another location would necessarily be acceptable. Each case is decided on its own merits.

Other Matters

18. On the evidence before me I am satisfied that, in the case of both appeals, the proposal to erect scaffolding and a shroud at each site is to enable on-going refurbishment works. In this respect, the appellants pointed out at the hearing that the scaffolding and a protective shroud would be erected whether or not the appeals were successful. This addresses the Council's concerns in their other reason for refusal on both appeals.

Conditions

19. Since it is my understanding that the upper floors of the premises would continue to be occupied for residential accommodation during the period of the work, I consider it appropriate to impose conditions limiting the intensity and hours of the illumination. In my view, the intensity should be no greater than 600cd/m², the maximum recommended for such a location by the Institution of Lighting Engineers in their Technical Report No. 5 *Brightness of Illuminated Advertisements* (Third Edition). As to hours of illumination, I agree that, given the evening opening hours of the commercial uses at street level, it would be reasonable for the advertisement to be lit until 23:00 and then again from 07:00, as requested by the appellants, rather than being unlit between 22:00 and 08:00 as suggested by the Council. For the avoidance of any doubt, I also propose to impose a condition requiring the shroud incorporating the advertisement to display a full scale representative image of the building facade.

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Appeal B

20. As regards Appeal B, the proposal is for a 1:1 image across the frontage of the southern elevation of 39 Kings Road, facing the seafront, with an advertisement measuring 9m by 13m on the side elevation to Ship Street. The latter would have a narrow 1:1 image around the sides and at the top. The advert display would cover a majority of the side elevation but the appellants consider that the SPD guidelines are met because the combined area of the shroud across the two elevations would not exceed 50%. My view, like the Council's, is that the 50% figure applies to each elevation. Be that as it may, I consider that the size of the proposed advertisement would be such as to dominate the side elevation to an unacceptable degree. Whilst the display would primarily be presented to view along the seafront rather than Ship Street, the more forward projection of the advertisement, on the front of the scaffold screen, would give it some prominence along the narrow, historic looking and low key commercial setting of Ship Street from where I consider that, even as an obviously temporary feature, its impact would be obtrusive.
21. As regards views within Kings Road, the advertisement would face across the frontage of a hotel, dominating and terminating the view from the footpath fronting that building. The impact of the large display would be accentuated by its right angled alignment to the seafront, affording considerable visibility in the approach from the east. I consider that, because of its size, height and exposure to view, the proposed display would be unacceptably dominant and intrusive, even in this mainly commercial street scene.
22. I accept that the proposed 1:1 image on the whole of the upper part of the Kings Road frontage and the more limited 1:1 image on the Ship Street elevation would create some visual interest and be preferable to a plain shroud during the renovation work. However, this does not provide sufficient justification to permit the proposed advertisement.

Conclusions

23. For the reasons given above, I conclude that Appeal A should be dismissed in so far as it relates to the originally sized proposal but allowed in respect of the smaller alternative. I further conclude that Appeal B should be dismissed.

David Leeming

INSPECTOR