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## Appeal Decision

Site visit made on 19 August 2013

by **R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL**

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

Decision date: 25 September 2013

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### **Appeal A Reference: APP/Q1445/E/12/2189270**

#### **11 Dyke Road, Brighton BN1 3FE**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr P Mott against the decision of Brighton & Hove City Council.
  - The application (reference BH2012/02705, dated 31 August 2012), was refused by notice dated 29 November 2012.
  - The works proposed are: "retrospective permission to fix fascia sign to front elevation and window graphics to first floor windows".
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### **Appeal B Reference: APP/Q1445/H/12/2189267**

#### **11 Dyke Road, Brighton BN1 3FE**

- The appeal is made under Regulation 17 of the Town and Country Planning Act (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr P Mott against the decision of Brighton & Hove City Council.
  - The application (reference BH2012/02706, dated 31 August 2012), was refused by notice dated 29 November 2012.
  - The advertisements proposed are: "one fascia sign (to replace previous sign)" and "vinyl graphics to first floor windows".
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## Decision

1. The listed building consent appeal (Appeal A) is allowed and listed building consent is granted for the installation of a non-illuminated fascia sign and window graphics to the front elevation of the building at 11 Dyke Road, Brighton BN1 3FE, in accordance with the terms of the application (reference BH2012/02705, dated 31 August 2012), subject to the following condition.
    1. Within three months of the premises ceasing to be used as a "recreational maze", the advertisements hereby approved shall be removed and the exterior of the building restored to its former condition (including the windows), in accordance with a scheme of work that shall have been submitted to and approved in writing by the local planning authority, prior to the execution of those restoration works.
  2. The advertisement consent appeal (Appeal B) is allowed and express consent for the display of the advertisements (a non-illuminated fascia sign and window
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graphics, to the front elevation of the building) as applied for is granted. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations.

### **Preliminary point**

3. Notwithstanding the descriptions of the signage given in the application forms, it may better be described as the installation of a non-illuminated fascia sign and window graphics, to the front elevation of the building. The applications are made retrospectively.

### **Main issues**

4. In relation to the advertisement consent appeal (Appeal B), the legislation makes it clear that the powers conferred by the Regulations may be exercised only in the interests of amenity and public safety; the development plan may be a material consideration but cannot be determinative. No objections have been put forward in relation to safety issues in this appeal. Thus, the main issue to be determined in the advertisement appeal concerns the visual impact of the proposed advertisements.
5. Hence, the main issue to be determined in both of the appeals is the effect of the proposed signage on the appearance of the listed building itself and on its surroundings.

### **Reasons**

6. The appeal building is an attractive and interesting building which was built as a school in 1867 and has been in use as a night club and, currently, as a "recreational maze" (which is a 'sui generis' use). It is designed in a Gothic style and is listed (Grade II) as a building of special architectural or historic interest. The site is located close to a main retail street in Brighton but is not in a prime commercial location.
7. The use of the building as a "recreational maze" and the alterations required to implement that use were the subject of planning permission and listed building consent granted in 2012. The use provides the building with a contemporary function that, evidently, implies some advertising. Indeed, a condition was attached to the listed building consent, requiring details of the signage to be submitted to and approved by the Council, prior to the implementation of the consent (though the condition has not been complied with).
8. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes obligations on those considering whether to grant listed building consent for development or works that affect a listed building. In such cases, it is necessary to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses.
9. That statutory framework is reinforced by the 'National Planning Policy Framework', especially at Section 12, which also points out the desirability of putting heritage assets to viable uses.
10. The Policies in the Development Plan do not have the same weight in respect of applications for listed building consent or as would be the case in respect of an

application for planning permission. In relation to the advertisement consent appeal (Appeal B), the relevant considerations are very limited, as has been explained, above.

11. Development Plan Policies are material considerations, nevertheless, and the Development Plan includes specific Policies aimed at protecting the historic environment. Policy HE1 of the Brighton & Hove Local Plan, which concerns listed buildings, is especially relevant in this case.
12. The signage that has been installed at 11 Dyke Road aims at attracting the attention of passers-by and is certainly striking in its effect, with a "horror" theme. In this case, however, it is necessary to consider the effect of the signage on the listed building as distinct from the content of the advertisements.
13. The scheme as a whole comprises a multiplicity of signs, mainly within the windows of the listed building but including a new fascia sign. The signage is fabricated from acrylic sheets and obscures the windows in fact though it gives the appearance of ghostly hands within the building and scary faces peering out. Although the windows are obscured, therefore, their form and impact is maintained in the exterior of the building. The fascia sign is more conventional, though it is likewise formed of acrylic, fixed to the elevation above ground floor windows. The fascia sign is somewhat incongruous in the context of the "horror" images, however, since it advertises a "Christmas Wonderland Grotto".
14. The signage scheme involves the creation of an illusion relating to the interior of the building, manifested by images that fill all of the windows on the front elevation. The design is modern in materials and imagery and it creates a contemporary visual impact that evidently contrasts strongly with the Gothic Revival architecture of the listed building. In many cases, of course, intervention in a listed building ought to reflect or even imitate the architecture and detailing of the original. In this case, however, the contrast between the contemporary design of the signage and the historic architectural style of the listed building is startling, perhaps, but it is valid in its context and it calls attention to the very different mission that the old school building now fulfils.
15. In short, the design approach for the window graphics is valid in architectural terms, in this particular case, bearing in mind the new use and its relationship to the Gothic school building. The more conventional fascia sign is reasonable in its context and does not impinge unduly on either the listed building or the streetscene. Moreover, the signage does not damage the fabric of the building and it could easily be removed upon the cessation of the current use, as has been pointed out in the submitted 'Design and Access Statement'.
16. The signage benefits the "recreational maze" business, which now occupies the premises, and is acceptable in visual and architectural terms. Hence, I have concluded that the scheme before me does not conflict with the aim of protecting the historic environment nor does it undermine the visual amenities of the area. I am persuaded that it can properly be allowed (subject to conditions) and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

17. In considering the need for conditions, I have been conscious that the advertisements reflect a particular current use of the premises and that it has been acknowledged that this signage could readily be removed once the use ceases. I have, therefore, imposed a condition on the listed building consent to ensure that this is done (based on wording to be found in Circular 11/95, but modified to suit the circumstances of the particular case).
18. Advertisement consent appeal is granted for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations. No additional conditions are needed.

*Roger C Shrimplin*

INSPECTOR