

Appeal Decision

Site visit made on 11 October 2016

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 18 November 2016

Appeal Ref: APP/H5390/G/16/3144030

109 - 111 Fulham Palace Road, London W6 8JA

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a Discontinuance Notice relating to the use of a site for the display of an advertisement with deemed consent.
 - The appeal is made by Mr T Johnston (JC Decaux UK Ltd) against discontinuance action by the Council of the London Borough of Hammersmith and Fulham (the LPA).
 - The Council's reference is 2015/01459/ADVERT.
 - The discontinuance notice (DN) is dated 24 November 2015.
 - The site is the on the flank wall of the property and comprises a 48 sheet hoarding.
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Decision

1. I dismiss the appeal. I direct that the Discontinuance Notice shall come back into effect immediately and that the use of the site for the display of advertisements with deemed consent shall cease within four weeks of the date of this decision.

The Main Issue

2. The main issue is whether the continued use of the site for the display of advertisements with deemed consent would be substantially injurious to amenity.

Reasons

3. The test under Regulation 8 of the 2007 Advertisement Regulations requires that there must be '*substantial injury*' to the amenity of the locality or a danger to members of the public'. This is a stricter test than that for consideration of whether express consent should be granted for an advertisement. It is on the basis of this stricter test that I have considered this appeal. There is no danger to members of the public and the appeal turns on the effect on amenity only.

4. The Council refers to Policy DM G8 of its Development Management Local Plan (DMLP). However, the powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any other material factors. Although the policy is a material consideration in my determination of this appeal it cannot, in itself, be decisive.

5. The National Planning Policy Framework (NPPF) is relevant and reiterates that amenity and public safety should be the only considerations relating to the control of advertisements. I have had regard to the presumption in favour of sustainable development set out in the NPPF as well as to paragraphs 17 and 19. These place significant weight on the encouragement and support of economic development and it is acknowledged that outdoor advertising is a major contributor to commercial activity in the country.

6. Planning Practice Guidance (PPG) also refers to the more rigorous test of 'substantial injury' being caused to amenity. In taking any action PPG indicates that LPAs need to precisely define the site and to justify their reasons for issuing a DN. In reaching my decisions in these cases I have taken into account all of the relevant matters set out in the NPPF and PPG.

7. The appeal site (No 111) is the southern facing flank wall of a three storey, end of terrace property, on the east side of Fulham Palace Road which is a London Distributor Road. The property is on the corner with Beryl Road. The non-illuminated poster panel hoarding measures 6m x 3m. At the time of my visit the ground floor was in use as a Barber's Shop. It does not lie within a conservation area but the Council refers in the DN to the Crabtree Conservation Area (CCA) part of which lies on the opposite side of the road. The ground floor forms part of a neighbourhood parade of shops and the character of the area is mixed with commercial uses along the road and wholly residential roads at right angles to it.

8. The Council served S330 requisition notices on the freeholder and the advertising company. It is stated that the panel has been operated for by the company since 1996 and the Council accepts that it benefits from deemed consent.

9. It is contended on behalf of the appellant that the display of the advertisement hoarding does not result in substantial injury to the amenity of the locality. Whilst accepting that it is visible on the approach heading north along the road, it is stressed that this is a basis requirement for outdoor advertising. It is stressed that this part of Fulham Palace Road is commercial and that there are other large format advertising in the locality. It is argued, therefore, that the established advertisement at the appeal site complements the local character and that, because it is non-illuminated, it has less of an effect during hours of darkness.

10. With regard to the references to the CCA, it is argued that because it has been in place for many years the advertisement forms part of the character in the vicinity of the CCA; that it does not actually lie within the CCA and that it should not be assessed as stringently as if it had been within the CCA. It is further contended that the panel is viewed separately in comparison with the CCA and does not directly conflict with the heritage asset.

11. The appellant rejects the Council's suggestion that the use forms an overly large, dominant and incongruous feature that fails to respect the architectural details of the building. It is contended that the flank wall is featureless and holds little if any architectural merit. The scale of the panel is considered to fit the scale of the building and the hoarding does not encroach upon the main road elevation. It is further argued that the longstanding established use results in the expectation of viewing displays on the flank wall and part of the streetscape.

12. However, I disagree with these arguments and particularly the contention relating to the 'expectation of viewing displays'. Whilst acknowledging that this part of the main road is commercial, most of the side roads are residential. The hoarding can clearly be seen from within Beryl Road and, in my view, residents should be able to have a reasonable expectation that such prominent hoardings are not perceived to be so close to their homes. Due to the slight bend in the road at this junction, there are clear views of both the hoarding and some of the dwelling houses.

13. Having viewed the advertisement; its specific site and its surroundings, I share the Council's concerns about the effect that it has had have on the character and appearance of this part of the Borough. I consider that it is a large conspicuous and discordant feature on the flank wall. Far from 'fitting the scale of the wall', I consider

the opposite to be the case. The hoarding completely dominates and overwhelms the scale of the wall.

14. It stretches two thirds of the way across the brickwork; it cuts immediately across the top of the side window and its top left hand corner almost touches the front elevation cornice. When seen from the south it completely dominates the elevation, detracting from the form and scale of the retail premises at ground floor level and upsetting the balance of the general street scene. I consider that the panel is out-of-keeping; excessive in scale and fails to respect the architectural features of the building and the street itself. In summary I agree with the Council that it is 'substantially injurious' to amenity in this part of the Borough.

15. Thus, despite the fact that this site has been used for some considerable time and that income would be lost, these commercial matters and arrangements do not outweigh my concerns about its harmful impact in this location. In my view, the adverse impacts identified above significantly and demonstrably outweigh the benefits of the continued display of this advertisement or the use of the site for display.

Other Matters

16. In reaching my conclusions in this case, I have taken into account all other matters raised by the appellant and by the Council. These matters include the planning history of the site; the detailed grounds of appeal and the matters covered in the Council's statement.

17. However, none of these carries sufficient weight to alter my conclusion on the main point at issue and that the advertisement site causes substantial injury to amenity. Nor is any other factor of such significance to change my decision that the appeal should be dismissed and the Discontinuance Notice should be upheld as drafted.

Anthony J Wharton

Inspector