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# Appeal Decision

Site visit made on 31 October 2017

**by C J Ford BA (Hons) BTP MRTPI**

**a person appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23 November 2017**

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**Appeal Ref: APP/X5210/Z/17/3181801**

**77 Tottenham Court Road, London W1T 2HG**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 ('the Regulations') against a refusal to grant express consent.
  - The appeal is made by Mr Martin MacNamara against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/1987/A, dated 6 April 2017, was refused by notice dated 30 June 2017.
  - The advertisement proposed is a wall mounted, portrait media screen.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The parties have drawn attention to Development Plan policies and parts of the National Planning Policy Framework, Planning Practice Guidance and Supplementary Planning Documents which they consider are pertinent to the appeal. In particular, it is noted that Policy D4 of Camden's Local Plan 2017<sup>1</sup> requires advertisements to preserve or enhance the character of their setting and host building. The policy also seeks to resist advertisements that impact upon public safety.
3. Whilst Section 38(6) of the Planning and Compulsory Purchase Act 2004 does not apply to advertisements, the policies and guidance have been taken into account, so far as they are material, in accordance with the Regulations.

## Main Issues

4. The main issues in this case are:
  - i) the effect of the proposed advertisement on the visual amenity of the area and,
  - ii) its effect on public safety.

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<sup>1</sup> Policies CS5 and CS14 of the Camden Core Strategy 2010 and Policies DP21, DP24 and DP25 of the Camden Development Policies 2010 were referred to in the Council's decision notice. These policies have since been replaced by policies in the Camden Local Plan 2017.

## Reasons

### *i) Visual amenity*

5. The site is located within the Charlotte Street Conservation Area (CA). In determining the appeal it is therefore necessary to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
6. The Council's 'Charlotte Street Conservation Area Appraisal and Management Plan 2008' ('the Appraisal') indicates that the character of this part of the CA is largely derived from its busy nature and the level of retail activity with Tottenham Court Road being a particular focus for department stores.
7. The proposed advertisement would be attached to the northern flank of No 77 Tottenham Court Road. No 77 is a three storey building with a mansard roof above that occupies a prominent corner plot position alongside the junction of Tottenham Street and Tottenham Court Road. The property is of a traditional brick built form which, excluding the roof, has two rows of sash windows positioned above the ground floor level. The design and materials of the building make a positive contribution to the urban fabric and character of the locality. This is reflected in the Appraisal which identifies No 77 as a 'Positive Contributor'.
8. The proposal is for a 5.1m high and 3.4m wide digital media display commencing 4.1m above ground level. It would be orientated to be visible from Tottenham Court Road when approaching from the north. However, it would also be particularly visible from the facing Whitfield Gardens public open space, located on the opposite side of Tottenham Street.
9. The retail character described in the Appraisal is reflected by No 77 and the neighbouring buildings which have commercial uses at the ground floor. On the other side of Tottenham Court Road, within the Bloomsbury Conservation Area, there is also the Grade II\* listed Heal & Son Ltd/Habitat department store and the Grade II listed Glen House which has retail uses occupying the ground floor.
10. Despite this character, commercial advertisements in the locality are largely limited to signage at ground floor fascia level and below. Notable exceptions are a series of flags running along the front of the listed department store. High level signs, in particular large advertisement hoardings or displays, are not a distinguishing feature of this part of the Tottenham Court Road street scene.
11. The one exception is a digital display located further to the north, close to the Whitfield Memorial Church and deep shelter entrance. However, it appears as an anomaly and there is no submitted evidence which indicates that it benefits from express consent. It is also less prominent than the appeal proposal as it is set back from the neighbouring northern building line and its landscape form is orientated to face the opposite side of Tottenham Court Road. Whilst it is noted that similar schemes have been approved within the commercial parts of other cities in the UK, the proposal must be considered on its own merits and in light of its specific situation.

12. Owing to its size and position the proposal would project well above the second floor row of windows at the appeal site. It would appear as an awkward and over-dominant addition to the host building that would significantly detract from its modest traditional form and character.
13. Notwithstanding the busy and commercial nature of the area, it would be an unduly prominent and jarring feature in the street scene. It would be at odds with the character of the area in respect of the appreciable absence of large scale high level advertisements. The proposal, emphasised by its internal illumination, would draw attention away and detract from the interest and importance of the nearby listed buildings. It would also detract from the character of the facing public open space as the intervening trees would provide little screening for a large proportion of the year.
14. It is recognised the Appraisal described Whitfield Gardens and its surroundings as being slightly run down with large scale and inappropriate advertising being an issue. However, the Appraisal dates from 2008 and the current appearance of the area supports the representations made by the Charlotte Street Association and the Fitzrovia Neighbourhood Association that there have been subsequent improvements to the area, brought about in part by the use of discontinuance notices. Given this background context, it is apparent the proposal would be a retrograde step and its adverse impacts would fail to complement the ongoing improvement works in the locality through the West End Project.
15. For the reasons given above, the proposed advertisement would have an unacceptably harmful effect on the visual amenity of the area. It would fail to preserve or enhance the character or appearance of the CA. It would also detract from the setting of the Bloomsbury Conservation Area, the two nearby listed buildings and the facing Whitfield Gardens public open space. The proposal would conflict with relevant policies and guidance that seek to protect visual amenity.

*ii) Public safety*

16. It is understood that the busy Tottenham Court Road is programmed to be altered to a two-way operation within the five year period for which express consent is sought. In light of this, the Council highlight that guidance published by Transport for London (TfL) suggests that digital advertising displays should be located in the nearside view.
17. The proposal would fail to accord with this reading of the guidance. However, the large scale and high level positioning of the display would mean that it would be readily visible from a considerable distance away. The approach to the appeal site is also fairly straightforward and would place low cognitive demands on road users.
18. Subject to appropriate conditions being imposed, particularly ones that control the timing and nature of the change between displayed images, the proposal would not be so distracting or confusing that it would be hazardous to drivers or other users of Tottenham Court Road. As such, it would not conflict with the TfL guidance which goes on to specify that other locations may be acceptable if they are within the eyeline of drivers and do not create unacceptable risks of diverting attention.

19. The Council also raise concerns in respect of eastbound road users of Tottenham Street in relation to the display and the resulting glare. However, the brightness could be limited to 300cd/sqm through a condition and given the set back and oblique high level positioning of the display, it is unlikely to distract drivers or other road users of Tottenham Street.
20. In light of the above, it is concluded the proposal would not have a detrimental impact on public safety and it would not conflict with relevant policies and guidance in this regard.

### **Conclusion**

21. Notwithstanding the finding on public safety, the identified harm in respect of the visual amenity of the area is a compelling and overriding consideration in this case.
22. The benefits of the proposal identified by the appellant have been noted which includes, amongst other things, the ability to display highway safety and public messaging in exceptional circumstances. The investment in the site including the cleaning of the building and introduction of a high quality lighting scheme is also noted. Nevertheless, advertisements are subject to control only in the interests of amenity and public safety. The conclusion on the former is determinative in this case and the appeal is therefore dismissed.

*C J Ford*

APPOINTED PERSON