



Appeal Decision

Site visit made on 31 December 2022, both daytime and evening.

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2023

Appeal Ref: APP/X5990/G/22/3306324

Ground Floor 47-49 Charing Cross Road and First Floor 45-49 Charing Cross Road, London WC2H 0AN

- 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 display of an advertisement with deemed consent.
 - The appeal is made by Mr Carl Kjellqvist, WingWing Holdings London Ltd against discontinuance action by City of Westminster Council.
 - The Council reference is 21/73992/F. The Discontinuance Notice is dated 6 July 2022. The advertisement concerned is 17 LED mesh screens displayed behind the windows at first floor level and three digital screens at ground floor level.
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Decision

1. The appeal is dismissed and the discontinuance notice is upheld.

Main Issue

2. The main issue is whether the advertisement causes a substantial injury to the amenity of the locality and/or a danger to members of the public.

Reasons

3. The appeal is against a discontinuance notice served against an advertisement comprising 17 illuminated LED mesh screens displayed behind first floor windows and three illuminated digital screens displayed behind ground floor windows at 45-49 Charing Cross Road. The displays are arranged around three façades of the building as the property also fronts onto Little Newport Street and Newport Court on either side. They serve to promote a chicken restaurant which occupies the ground and first floor of the premises. The upper floors are in residential use. The displays were installed in early 2021 and there is no dispute they have deemed consent by virtue of Class 12 of Schedule 3 Part 1 of the Advertisement Regulations. Express consent has been granted for a range of other advertisements at the premises¹.
4. The premises occupy a prime position on Charing Cross Road in the busy West End, immediately opposite Leicester Square tube station and at the entrance to the distinctive Chinatown area of Soho. The site lies just within the Chinatown Conservation Area (CA) with the Covent Garden CA to the east and Leicester Square CA to the south, the three joining up with contiguous boundaries. The appeal building is not listed but there are many listed buildings in the vicinity including the Hippodrome to the south and the block immediately to the west.

¹ Reference 21/01288/ADV

5. At the heart of theatreland in central London, the premises lie in an area with almost continuous active frontages at pavement level along the various roads. These attract heavy pedestrian footfall and include restaurants, cafes, retail premises, theatres and offices. The result is a vibrant, well-lit streetscape of shopfronts and commercial buildings with lots of brightly illuminated fascias, projecting signs and advertising in windows. However, in the immediate vicinity of the site these are almost exclusively confined to the ground floor of the frontages with notable exceptions such as some higher level illuminated lettering on the Hippodrome and nearby theatres.
6. The first floor advertisements displayed in the appeal premises thus stand out starkly. The illuminated displays, frequently changing in a continuous sequence, are located behind the upper half of 17 windows, two facing the Little Newport Street frontage, nine fronting onto Charing Cross Road facing down Great Newport Street and six on the return Newport Court Frontage. Without precedent in the immediate vicinity, the bright and constantly changing displays are excessive in number, shining out both during the day and evening, hard to ignore from close quarters and easily seen from a distance in the surrounding streets. Understandably the subject of complaints from nearby residential occupiers, they are an unusually jarring feature, distracting and intrusive in the street scene. They clearly cause a substantial injury to the amenity of the locality, the relevant test for a discontinuance notice.
7. Whilst there are a few examples of first floor level displays in the vicinity, these are different in nature. In addition to the names of theatres, traditional in the West End, others are low profile and static, for example two small KFC roundels on the opposite corner of Little Newport Street and the name of Caffé Concerto at the other end of Great Newport Street. There are some large high level illuminated displays further into Chinatown and towards Leicester Square, but displays along Charing Cross Road are static and more subdued.
8. The Council's Soho and Chinatown CA Audit recognises the vibrant character of the area, and that its role as a retail and entertainment centre has led to a particularly rich and eclectic mixture of shopfronts, which are themselves a key part of the character of the area. However, this does not amount to a free for all in respect of moving, illuminated advertisement displays.
9. The appellant argues that the advertisements are part of the interior design of the building, inherent to the brand, are high quality, at a key entry point for Chinatown, revitalise the area, and that the brightness of the display has been reduced in the light of complaints and limited to opening hours only. However, their prime function is to be visible from outside, the displays are not essential to the area, the steps taken to date are plainly insufficient and in the absence of a requirement for consent conditions cannot be attached. As pointed out by the Council, the discontinuance notice does not preclude an advertisement display but provides for the necessary control.
10. In addition to the first floor displays, there are three changing digital displays behind ground floor windows alongside several static lit menu displays which are common in the area. These are less problematic but add visual clutter and should be included in the discontinuance notice to provide control over the advertisement strategy for the building as a whole.
11. The Council also argue that the advertisements are a danger to members of the public due to the potential for distracting road users in an area busy with

vehicular traffic, cyclists and pedestrians. Whilst primarily at first floor level, the bright, constantly changing displays could easily cause a lapse in concentration leading to highway safety concerns. The presence of moving displays elsewhere in the West End does not justify one here.

Conclusion

12. For the above reasons the advertisement causes a substantial injury to the amenity of the locality and potentially a danger to members of the public in conflict with Policies D8, HC1 and T2 of the London Plan 2021 and Policies 33, 38, 39, 40 and 43 of the Westminster City Plan 2021. These require careful consideration of lighting in the public realm, high quality and sensitive design, conservation of heritage assets, the reduction of road danger, the impact of glare/light spill to be minimal, and seek to ensure advertisements contribute to amenity and public safety by being sensitively designed in terms of their size, location and illumination. The other policies quoted by the Council are of marginal relevance.
13. The appeal should therefore be dismissed and the discontinuance notice upheld.

David Reed

INSPECTOR