



Appeal Decision

Hearing held on 09 May 2006

Site visits made on 09 May 2006

by **Simon Hand MA**

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

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Date

MAY 2006

Appeal A - Ref: APP/X5210/H/05/1194267

Flank wall of 162 Malden Road, London, NW5 4BS

- The appeal is made under Regulation 15 of the Town and Country Planning (Control of Advertisements) Regulations 1992 against a Discontinuance Notice relating to the use of a site for the display of advertisements with deemed consent.
- The appeal is made by Maiden Outdoor Advertising Ltd against discontinuance action by the Council of the London Borough of Camden.
- The Council reference is EN04/1138. The Discontinuance Notice was served on 20 September 2005.

Summary of Decision: The appeal is dismissed.

Appeal B - Ref: APP/X5210/H/05/1196526

Flank wall of 40D Kilburn High Road, fronting Belsize Road, London, NW6 5UA

- The appeal is made under Regulation 15 of the Town and Country Planning (Control of Advertisements) Regulations 1992 against a Discontinuance Notice relating to the use of a site for the display of advertisements with deemed consent.
- The appeal is made by Maiden Outdoor Advertising Ltd against discontinuance action by the Council of the London Borough of Camden.
- The Council reference is EN05/0126. The Discontinuance Notice was served on 27 October 2005.

Summary of Decision: The appeal is allowed and the Discontinuance Notice quashed.

Main Issues

1. In both appeals it is whether the poster panels cause substantial injury to the character and appearance of the area and in the case of Malden Road, the affect on the host building.

Planning Policy

2. The Council have drawn my attention to the policies they consider to be relevant to these appeals and I have taken them into account as a material consideration. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of these appeals, the Council's policies have not therefore, by themselves, been decisive.

Reasons

Appeal A - Malden Road

3. Two 48 sheet poster panels are located on the flank wall of a three storey building facing east down Malden Road, opposite Malden Place. The area is mixed, with housing to the east on the opposite side of the road and shops and a pub to the west. The site itself
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overlooks a car sales forecourt and jet wash, and beyond that a playground, surrounded by trees, with flats beyond.

4. The poster panels occupy most of the flank wall at first and second floor levels. Because it is next to the open forecourt of the car sales area the flank wall is exposed and prominent in the street scene. The poster panels dominate the flank wall and stand out quite dramatically. Although the area is mixed, the panels are in full view of the housing opposite. While this is not a Conservation Area and the site itself is rather scruffy, the Council are in the midst of a programme of discontinuance action to improve the appearance of the Borough. Two other panels in the vicinity will form part of a second tranche of this programme. In my view because of their exposed position and their height, the panels appear to be dominant. They overwhelm the flank wall and appear to be out of scale with the building, and their surroundings. This adds up to a substantial injury to amenity.
5. At the Hearing it was pointed out that the Discontinuance Notice referred to the whole flank wall, which includes, below the bottom poster panel a trade sign, and a space at ground level where a further 48 sheet could possibly be positioned. Whether such a panel would require a separate express consent was unclear, but I think a ground floor 48 sheet, overlooking the car sales, would have quite a different impact to those higher up the wall. The Council agreed that the Discontinuance Notice could be amended to exclude the ground floor (and so allow the trade sign to remain), and they would deal separately with the issue of the ground floor panel should it arise. This seems reasonable to me, and I shall amend the Discontinuance Notice accordingly.

Appeal B – Kilburn High Road

6. The scope of the Discontinuance Notice was questioned at the Hearing and I shall deal with that issue later. However, the Discontinuance Notice was intended to deal with the 48 sheet poster panel partly on the flank wall of 40D Kilburn High Road. The flank wall faces onto Belsize Road. At the junction of the two roads stands a single storey building used as a shop. Its flank wall is also single storey, and contains a shop window on the corner, an old poster panel of about 6 sheet size, which was not in use at the time of my site visit, then a domestic sized window and then the poster panel. The panel extends beyond the flank, and covers part of a lower wall, which occupies a long stretch of this side of Belsize Road, with Kilburn High Road station behind. The station is set down below road level, but the top of the entrance bridge is visible above the wall. Opposite the site is a row of shops and caf  s. Kilburn High Road is very busy, and lined by shops, many with large and aggressive fascia and projecting signs, particularly near the junction with Belsize Road. This is a busy and forcefully commercial area. The road junction was being dug up at the time of my site visit, and Belsize Road was closed to traffic. Ordinarily, however, I assume it would be busy with traffic.
7. There were a group of five poster panels further down Belsize Road, all were externally illuminated. The Council confirmed these were the subject of future discontinuance action and the Discontinuance Notices were in the process of being served. However, even if these were to be removed, they are in quite a different location to the appeal panel. Situated close to the junction, it is very much part of this busy commercial area. Because of its location, however, it is not dominant in the street scene, and not subject to long views from Kilburn High Road. From further down Belsize road it is seen against the mass of buildings behind. From the corner of Kilburn High Road, the edge of the panel protrudes above the

low wall and does look a little odd. However, I do not think this amounts to a substantial injury to amenity. At the back of the pavement, it is close to pedestrians and considerably taller than they. However, it appears to be part of the side wall of the shop, and in this particular location does not appear out of place nor overwhelming. Consequently, I do not think the panel causes a substantial injury to amenity and the Discontinuance Notice should be quashed.

8. The appellants claimed the Discontinuance Notice was faulty, because the plan outlined all the corner building labelled 40(a) and 40(d), whereas the Discontinuance Notice itself referred only to the "site known as 40(d) Kilburn High Road.....fronting Belsize Road..." There was some doubt as to which part of the site 40(d) was and which was 40(a). Also the site clearly encompassed a small part of the low boundary wall, which was not part of either 40(a) or (d). Because I am quashing the Discontinuance Notice, I do not think that I need come to a definitive conclusion on this. However, I would say that usually the plan and the description in the Discontinuance Notice should tally, and they should make it clear exactly what the target of the Notice is, particularly where there is scope for ambiguity as in this case.

Conclusions

Appeal A - Malden Road

9. For reasons given above and having regard to all other matters raised, I conclude that the continued use of the site for the display of advertisements with deemed consent would be substantially detrimental to the interests of amenity. I therefore consider it appropriate, after varying the scope of the Discontinuance Notice, to return effective control over the display of advertisements on the site to the local planning authority.

Appeal B – Kilburn High Road

10. For the reasons given above and having regard to all other matters raised, I conclude that the continued use of the site for the display of advertisements with deemed consent would not be substantially detrimental to the interests of amenity.

Formal Decision

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11. I dismiss the appeal. I vary the first schedule of the Discontinuance Notice to read "The first and second floor part of the flank wall of 162 Malden Road, NW5 4BS". I uphold the notice as so varied and direct that it shall come back into effect immediately and that the use of the site for the display of advertisements with deemed consent cease by the end of period of 56 days from the date of this decision.

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12. I allow the appeal and direct that the Discontinuance Notice be quashed.

A handwritten signature in black ink, appearing to be 'SH', written over a faint horizontal line.

Simon Hand
Advertisement Appeal Inspector

APPEARANCES

FOR THE APPELLANT:

Chris Thomas

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FOR THE LOCAL PLANNING AUTHORITY:

Christine Zacharia

London Borough of Camden

DOCUMENTS

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| Document | 1 | List of persons present at the hearing |
| Document | 2 | Appellants representations on Appeal A |
| Document | 3 | Appellants representations on Appeal B |