



Appeal Decision

Hearing held on 16 May 2006

by **P Hellawell**

Advertisement Appeals Inspector appointed by the First Secretary of State

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Date

13 JUN 2006

Appeal Ref: APP/X5210/H/05/1196606

218 Kilburn High Road, London

- 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 Clear Channel UK Ltd against discontinuance action by Camden London Borough.
- The Council reference is EN04/1150.
- The Discontinuance Notice was served on 27 October 2005.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. I have noted the Appellant's assertion that the Discontinuance Notice was not properly served on the Advertiser at either their registered office or operational premises. However, the Council have confirmed that the Notice was sent via the Royal Mail by recorded delivery and that a copy of the delivery posting notice was sent to the Appellant who does not accept that this is proof of delivery. Further enquiries at Royal Mail have been unable to confirm whether or not the Notice was in fact delivered. In view of the lack of any conclusive evidence at this stage, therefore, there is no reason, in my view, to agree that the Notice has been improperly served. Furthermore, in these circumstances I am of the opinion that the matter should have sorted out by both parties before any appeal was made.
2. Notwithstanding the above, however, whilst the Appellant may not yet have received the copy of the Notice directly from the Council the Company was faxed a copy by another source (this is clearly evident from the submitted evidence) which was used as a basis for the appeal. This set in motion the due process and the Hearing method was chosen. This resulted in a detailed pre Hearing statement being sent to the Appellant thus giving them ample opportunity to formulate a response. A further opportunity to state their case and question the Council decision to issue the Notice was also afforded to them at the Hearing. In these circumstances, therefore, and having made the decision to launch an appeal on the basis of a copy of the Notice instead of one sent directly to the Company I am of the opinion that the Appellant has not suffered any prejudice whatsoever by apparently not yet having received the original copy of the Notice and as a result I do not consider that there is any justification for quashing the Notice.
3. The Appellant has also contended that the Notice was not served with the proper authority. The Council, however, refute this and have given a detailed explanation of the trail of delegation along with previous appeal decisions upholding their system and having

examined all this evidence I am satisfied that the Notice was issued with the proper authority.

Main Issues

4. The principle issue in this case is the effect of the continued use of the site for the display of advertisements with deemed consent on the amenity of the area.

Planning Policy

5. The Council have drawn attention to their policies and I have taken these into account as a material factor in my consideration of the appeal. However, as the Regulations require that the local planning authority, and the Secretary of State on appeal, shall exercise their powers only in the interests of amenity, and where applicable, public safety, taking into account any material factors, I do not consider that the Council's policies should, by themselves, be decisive in the determination of the appeal.

Reasons

6. The appeal premises are a four storey building located on the east side of Kilburn High Road which is a predominantly commercial thoroughfare at ground level with ancillary and residential uses above. They are just to the south of its junction with Gascony Avenue which is a generally residential road. The ground floor contains a shop unit but the upper floors still retain a domestic appearance with stone detailing round the original window openings. There is also a rear extension at first and second floor levels. At the time of my site visit two 48 sheet poster panels were being displayed one above the other on the exposed southern elevation extending from the bottom of the first floor to about midway up the third floor. The panels each measure some 3m x 6m. They also extend onto the rear extension where they partially obscure small windows with the top of the higher panel also overhanging the rear edge of the original wall and in my opinion they appear as overlarge and random additions to the property, particularly when seen in relation to the domestic looking character of the upper floors. The panels also occupy a prominent corner location which makes them widely visible. They are also seen above rather than as part of the ground floor level of commercial activity along Kilburn High Road and I consider, especially because of their size and inappropriate siting, that they stand out as very intrusive features in this street scene. In view of the adverse effect of the panels on both the host building and the locality, therefore, I am of the opinion that the Council should retain initial control over any advertisements proposed for this site.
7. I have noted the Appellants offer to reduce the size of the display and confine it to the lower part of the upper floors. However, in my view this would not overcome all the above amenity objections to the display of such advertising material on this part of the property.

Conclusions

8. For the reasons given above, therefore, and having taken account of all the material factors, 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.

Formal Decision

9. I dismiss the appeal and direct that the Discontinuance Notice shall come back into effect immediately.



Advertisment Appeals Inspector

Appearances

For the Appellant:-

Mr C Thomas – Agent

Mr T Dunseath – Clear Channel UK

For the Council:-

Mr G Bakall – Planning Department

Documents submitted at the Hearing

Proof of evidence read by Mr Thomas and associated documents.