
Appeal Decision

Hearing held on 22 October 2013

Site visit made on 22 October 2013

by David Leeming

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

Decision date: 26 November 2013

Appeal Ref: APP/X5210/H/13/2196548

Land at 369-377 Kentish Town Road, London NW5 2TJ

- 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 advertisements with deemed consent.
 - The appeal is made by Clear Channel UK Ltd against discontinuance action by the Council of the London Borough of Camden.
 - The Council reference is EN11/0104. The Discontinuance Notice is dated 13 February 2013.
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Decision

1. The appeal is allowed and the discontinuance notice is quashed.

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 visual amenity.

Preliminary Matters

3. The site is described in the discontinuance notice as the front elevation of bridge structure at ground floor level and adjoining site at first floor level of 369 -377 Kentish Town Road shown edged black on the plan attached to the notice. However, no part of the site as identified on the plan includes part of a bridge structure. The railway bridge is adjacent land to the south. As the Council accepted at the Hearing, the description of the site, in so far as it refers to the front elevation of the bridge structure, is incorrect.
4. The further reference in the description to 'adjoining site at first floor level' is somewhat vague and could be taken to include a projecting sign on the frontage. However, the Council confirmed at the Hearing that the notice was solely intended to relate to the poster advertising on the site frontage and not to any signage for the car wash, to which they had no objection.
5. Had the notice been upheld, the description of the site could have been corrected and re-written, without causing any injustice to the parties, to more precisely refer to the areas of the site frontage occupied by the existing poster displays.

Reasons

6. The car wash premises occupy a triangular-shaped area of land between the adjacent railway and a mixed use terrace with built out frontages. The surrounding area is commercial in character and the site adjoins a busy main road, close to a junction.
7. The premises contain some old buildings with a generally run down appearance. The car wash facility is set below an elevated, partially enclosed roof structure. An exposed tall girder extends forward from the covered area, close to the front boundary.
8. The existing poster panels are located on the north-eastern frontage with Kentish Town Road. The larger of the two is positioned adjacent to the side wall of a run down commercial building. Although the panel presents a significant roughly 36 sqm of advertising material, it is set down below the top of, and very largely visually contained against, the adjacent flank wall. In this regard, in so far as the building is of a design and form meriting some respect, the panel is not disrespectful. In this case, instead of what would undoubtedly be drab views of an elongated flank wall, the panel presents an appropriate element of colour at street level. Despite its size, in its low level position, parallel to the road, the impact of its face display is essentially confined to the immediate commercial setting and the panel does not unduly impose into the street scene.
9. The second panel is roughly half the width of the larger one. It is not wholly at a height described by the Council as 'first floor level'. Although it clearly does have a more elevated position than the other panel, it serves to partly screen the tall and unattractive roof structure and girder on the land behind. Like the other panel, it has a parallel position to the highway, which limits visibility within the surroundings. The only exception is that, in its position closer to the junction with Fortress Road, it does have a degree of forward visibility in the approach from the north. Even so, it is not of such a size or in such an exposed or elevated position that it appears unduly dominant in this approach.
10. Although both panels are of a size and scale quite different to those on the nearby shops and businesses, their impact, in the above circumstances, is not such as to present unduly assertive advertising in this busy commercial street scene.
11. Given the run down appearance of the appeal premises it is not immediately apparent how the removal of the panels would, as the Council suggest, contribute materially to the improvement of the public realm. Rather, they would be likely to create greater exposure of the unattractive buildings and roof structures on the site. In any event, the relevant test in this appeal is not whether the panels positively contribute to the appearance of the area, or even whether they create an element of visual harm. Instead, as noted above, the matter to be determined in this appeal is whether the continued use of the site for the display of advertisements with deemed consent would result in substantial injury to visual amenity. This is an altogether stricter test that necessarily applies where advertisements are lawfully displayed.
12. The Council have submitted a number of previous appeal decisions and these have been noted. For the most part these relate to advertisements displayed

at high level and to advertisements for which express consent was sought. These previous cases are not therefore readily comparable. In any event, it is an established planning principle that each case should be considered on its own merits. As such, limited weight can be attached to the previous appeal decisions in question.

13. The Council have referred to Camden Development Policies CS14 (promoting high quality places and conserving our heritage) and DP24 (securing high quality design) in their Core Strategy Local Development Framework. As the appellants note, these concern development rather than advertisement displays. However, paragraph 8.2 of the Council's design guidance on advertisements, signs and hoardings states that the guidance relates to the above-mentioned Core Strategy Policies. Even so, paragraph 8.16 states that the specific advice in the guidance relating to hoardings applies where advertisement consent is required, which is not the case here. In any event, the existing displays comply generally with the Council's guidelines.
14. It is noted that the Council's decision to take discontinuance action was part of an ongoing and largely successful programme to secure the removal of hoardings considered by the Council to be unacceptable on major routes or within conservation areas. However, in this case, the conclusion is that the current use of the site for the display of advertisements with deemed consent does not result in a substantial injury to visual amenity.

David Leeming

INSPECTOR

APPEARANCES

For the Appellants

Chris Thomas – Agent

Tony Dunseath – Clear Channel

For the Council

David Glasgow – Planning Officer, Camden Council

Hannah Parker – Planning Officer (Appeals and Enforcement), Camden Council

DOCUMENTS

Doc. 1 – Copy of appeal decision dated 9 November 2010 relating to 379 Kentish Town Road (APP/X5210/H/10/2133641)

Doc. 2 – Copy of appeal decision dated 10 October 2011 relating to 379 Kentish Town Road (APP/X5210/H/11/2154410)