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# Appeal Decision

Site visit made on 28 July 2015

**by Anthony J Wharton BArch RIBA RIAS MRTPI**

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

**Decision date: 05/08/2015**

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**Appeal Ref: APP/X5210/G/14/2224133**

**Pavement adjacent to 128 – 144 Euston Road, Camden, London NW1 2AS**

- 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 Derek Parkin, Infocus Public Networks Ltd against discontinuance action by the Council of the London Borough of Camden.
  - The Council reference is EN/14/0351.
  - The Discontinuance Notice is dated 26 June 2014.
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## Decision

1. The appeal is dismissed (see formal decision below).

## Matters of clarification

2. The appeal site is a telephone kiosk erected in accordance with Part 24 of the General Permitted Development Order 1995 as amended. As such it is lawful for planning purposes and Class 16 of Schedule 3 of the 2007 Outdoor Advertising Regulations gave deemed consent for an advertisement on one glazed surface of this public pay phone.
3. I have noted the comments made on behalf of the appellant relating to the Council's review of payphones within the Borough and I have also considered the contention that the discontinuance notice procedure is discriminatory and should not have been applied in this particular case. However, this is an advertisement with deemed consent and where such an advertisement is considered by a local planning authority (LPA) to result in substantial injury to amenity and/or public safety it is entitled to take discontinuance action if it is considered expedient.
4. I have, therefore dealt with this appeal on the basis that the discontinuous action is procedurally acceptable and have considered the case on its merits.

## The main issues

5. The main issues are whether the continued use of the site (the largest glazed facade of the telephone kiosk) for the display of the advertisement with deemed consent would be substantially injurious, firstly to amenity and, secondly, to public safety in this part of Camden.

## Reasons

6. The test under Regulation 8 of the 2007 Advertisement Regulations requires that there must be '*substantial injury*' to the amenity of the locality or a '*danger to members of the public*'. This is a stricter test than that for consideration of whether express consent should be granted for an advertisement, where the test is

simply the effect on public amenity and public safety. It is on the basis of this stricter test that I have considered this appeal.

7. The Council contends that as well as being substantially injurious to amenity, the advertisement, which obscures the formerly transparent glazed south facing panel of the kiosk, results in reduced visibility of traffic for pedestrians.

*Effect on amenity*

8. The kiosk is located outside of the Churchway frontage of the Grade II listed Elizabeth Garrett Anderson Hospital Building and the advertisement is clearly noticeable from both near and distant viewpoints. This part of the Churchway streetscape is relatively uncluttered. There are several bicycle stands to the south of the kiosk; 5 mature trees to the north and a few small road signs. Clearly the advertisement content is subject to change but I noted that it was a prominent feature on the south face of the kiosk.

9. I accept that due to its basic design the kiosk, in itself, is not particularly obtrusive. Without the infilling of the large glazed panel the fine lines of the slender structure would merge acceptably into this particular part of the Camden streetscape. However, I consider that the placing of the opaque advertisement on the large south facing section visually transforms the kiosk into an out of scale and out of character advertisement site.

10. I noted that the main pedestrian flows are along Euston Road and that the kiosk is relatively close to the junction with Churchway. Despite the width of the pavement along Churchway, when walking east to west along Euston Road, the advertisement suddenly appears as a striking, obtrusive and ungainly feature close to the junction and the boundary wall of the listed building. Because it is relatively close to this red-brick wall and fixed to the largest façade of the kiosk, the panel appears to be a free-standing pavement advertisement and the structure is not immediately recognisable as a telephone kiosk.

11. When approached from the west the kiosk is obviously more recognisable as such but, again, because of its size and strident appearance, the advertisement dominates the view. Furthermore, from this angle the advertisement is seen against the background of the listed building and visually clashes with the fine brick and stonework detailing of the building. The visual result is one which, in my view is significantly harmful to the character and appearance of the street scene, as well as being significantly harmful to the setting of the listed building.

12. In another location, away from a listed building of this quality, the advertisement might be acceptable but in this particular location I find that it causes substantial injury to amenity in this part of Camden and do not consider that it should be allowed to remain in place.

*Effect on public safety*

13. Whilst noting the Council's points about the advertisement obscuring views of traffic, I do not accept their contention that the advertisement site is a danger to the public. Because of its siting, which is some distance from the predominant pedestrian flows along Euston Road, there are clear views of traffic movements (mainly buses) for pedestrians.

14. Even though there is no controlled crossing point, I do not consider that the kiosk and the advertisement result in any significant danger to the public. In my view the installation is no more dangerous than many nearby bus shelters with

similar advertisement features. On this second issue I therefore find in the appellant's favour.

*Overall conclusion*

15. Although I have concluded that there is no noticeable danger caused to the public by the advertisement, the substantial injury to amenity, which I have referred to above, more than outweighs any favourable findings in respect of highway safety.

**Other Matters**

16. In reaching my conclusions I have taken into account all of the other matters raised by the appellant and the Council. These include the Council's detailed statement and the initial grounds of appeal; references to procedures; the history of the payphone site; the comments on Government policy and Parliament's intentions regarding the 2007 Regulations; the contention that the decision to take discontinuance action is discriminatory and that its issue was not justified; the detailed final comments by the appellant and all of the photographs and other evidence submitted.

17. I have also taken into account as material considerations all references to local and national policies and guidance (National Planning Policy Framework and Planning Practice Guidance).

18. However none of these factors alter my conclusion that, for the reasons set out above, this particular advertisement site (the south facing, glazed façade of the payphone kiosk) has resulted in substantial injury to amenity. There are no other matters of such significance so as to change my decision.

**Formal Decision**

19. I dismiss the appeal; direct that the Discontinuance Notice shall come back into effect immediately and that the use of the site for the display of advertisements with deemed consent shall cease within 21 days from the date of this decision.

*Anthony J Wharton*

Inspector