



## Appeal Decision

Site visit made on 8 January 2018

**by Les Greenwood MRTPI**

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

**Decision date: 23 January 2018**

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### **Appeal Ref: APP/X5210/Z/17/3188096**

#### **Tower Mansions, 134-136 West End Lane, London NW6 1SB**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Mr Sam Dayeh against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/3770/A, dated 3 July 2017, was refused by notice dated 5 September 2017.
  - The advertisement proposed is the replacement of a traditional internally illuminated poster display with an LED display of smaller proportions.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues are the effects of the proposed signage on: (i) the visual amenity of the local area; and (ii) the safety of public highway users.

### **Preliminary matter**

3. The application description, as quoted above, refers to the replacement of an advertisement. At the time that the application was decided and at the time of my site visit, however, no sign was displayed in this location.
4. The appellant's argument in large part relies on an assertion that a sign may still lawfully be displayed here under Class 13 of the Town and Country Planning (Control of Advertisement)(England) Regulations 2007 (as amended). Class 13 grants deemed advertisement consent for an advertisement displayed on a site that has been used continually for the preceding 10 years for the display of advertisements without express consent. There seems little doubt that the previous sign was displayed without such consent for more than 10 years, following a dismissed appeal in 2004, until it was taken down for safety reasons sometime in 2017.
5. Since that time, however, no sign has been displayed here. In correspondence with the Council the appellant refers to case law allowing a gap of up to 3 years without losing Class 13 deemed consent. This case law has not been referenced, however, and there is no certificate of lawful use or development confirming that deemed consent still exists. I am left in considerable doubt regarding the lawfulness of re-siting the previous sign here and have therefore

assessed this appeal on the basis of the existing circumstances - so that in effect the proposal is to display a new sign rather than a replacement.

## Reasons

### *Visual amenity*

6. West End Lane in this area is a busy commercial street, characterised by a mix of buildings of various heights, sizes and eras. Tower Mansions is a handsome and intricately designed 4.5 storey building rising prominently above the much lower adjacent buildings, adding to the character of the area.
7. The proposed 48 sheet LED sign, with a changing digital display, would be sited high up on the side of the building at second and third floor levels, where it would be in plain view from the street and other vantage points to the north. The display of such a brash and eye-catching type of sign, of this size and in this location, would be visually dominant and intrusive within an area where other signs are in general much smaller and closer to street level.
8. The proposed sign's vertical proportions and layout would, furthermore, cross 2 bands of contrast brickwork which are a notable facet of the building's character, in conflict with its architectural style. I conclude that the proposal would unacceptably harm the visual amenity of the local area.

### *Highway safety*

9. The proposed sign would be visible to drivers approaching from the north along West End Lane, which is heavily trafficked by motor vehicles, pedestrians and cyclists. Traffic speeds are necessarily low, with a 30mph speed limit and 2 sets of signals at a junction and a pedestrian crossing on the immediate approach to the site.
10. Transport for London's *Guidance for Digital Roadside Advertising and Proposed Best Practice* (GDRA) advises that digital advertisements will not normally be permitted within 20m of pedestrian crossings, as would be the case here. The proposed sign would, however, be high enough above the crossing so that it would no longer be in the main view of drivers nearing the crossing.
11. Although out of character in this particular area, the sign would not be unusual within the wider cityscape, so that drivers should not be unduly distracted by its presence. The changeover of images could be controlled by condition, in line with the GDRA. I note that an illuminated sign has been displayed here for many years and have seen no evidence of related accidents.
12. I conclude that the proposed sign would not significantly or unduly prejudice the safety of public highway users.

## Conclusion

13. In assessing this appeal proposal I have had regard to Camden Local Plan 2017 Policies A1 and D4, the Fortune Green & West Hampstead Neighbourhood Plan and the Council's Supplementary Planning Document *Camden Planning Guidance 1*. Powers under the advertisement regulations, however, may only be exercised in the interests of amenity and public safety, taking account of material factors such as adopted policies, which are not by themselves decisive.

14. I note that the sign would be energy efficient and would use recyclable materials. Neither this matter, nor my lack of objection in regard to highway safety, is sufficient to overcome my concerns in regard to the impact on visual amenity. I therefore conclude that the appeal should not succeed.

*Les Greenwood*

INSPECTOR