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## Appeal Decisions

Site visit made on 17 April 2018

by **C L Humphrey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9<sup>th</sup> May 2018

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### **Appeal A, Ref: APP/X5210/W/18/3194668** **81 Kentish Town Road, London NW1 8NY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Schlagman (Zing Zing) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/3585/P, dated 4 October 2017, was refused by notice dated 15 January 2018.
  - The development proposed was originally described as 'Installation of decking to the front of shop unit and display of internally illuminated fascia sign (retrospective).'
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### **Appeal B, Ref: APP/X5210/H/18/3194669** **81 Kentish Town Road, London NW1 8NY**

- 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 M Schlagman (Zing Zing) against the decision of the Council of the London Borough of Camden.
  - The application Ref 2017/3840/A, dated 4 October 2017, was refused by notice dated 15 January 2018.
  - The advertisement proposed was originally described as 'Installation of decking to the front of shop unit and display of internally illuminated fascia sign (retrospective).'
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### **Decisions**

1. Appeal A is dismissed and Appeal B is dismissed.

### **Procedural Matters**

2. The descriptions of the development and advertisement set out in the banner heading above are taken from the application forms. However, the Council's decision notices describe the development as 'Installation of timber decking and balustrade on forecourt' and the advertisement as 'Display of internally illuminated fascia sign' and the appellant has used these descriptions on the appeal forms. These revised descriptions more appropriately describe the appeal schemes, and I have therefore considered the appeals on that basis as no party would be prejudiced or caused any injustice by me doing so.
3. At the time of my site visit the development had been completed and the advertisement had been installed.
4. The appeal site lies within the setting of Grade II listed buildings opposite at 1 Jeffrey's Street and 46 Kentish Town Road, 48 and 50 Kentish Town Road and 52-64 Kentish Town Road, and the Jeffrey's Street Conservation Area (the

Conservation Area). The effect of the development and advertisement upon the setting of the listed buildings and the Conservation Area was not considered by the Council in the delegated reports and did not form part of the reasons for refusal. However, the parties have had the opportunity to comment on these matters.

5. With regard to Appeal A, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have a statutory duty to have special regard to the desirability of preserving the setting of the listed buildings, and have done so. In the case of both appeals, in considering the effect of the development and advertisement on the character and appearance of the area and amenity, the effect on these heritage assets is a material consideration which I have taken into account.

### **Main Issues**

6. In the case of Appeal A the main issue is the effect of the development upon the character and appearance of the appeal property and surrounding area, including the setting of the Conservation Area, and whether it preserves the setting of the nearby Grade II listed buildings.
7. The main issue in Appeal B is the effect of the advertisement upon amenity.

### **Reasons**

8. The appeal property is a hot food takeaway located on the western side of Kentish Town Road in a parade of shops and other commercial units designated as secondary frontage within Kentish Town Centre. The parade comprises a terrace of primarily 3 storey properties set back from the footway behind small, generally open, forecourts.

#### *Appeal A*

9. The timber decking is raised above the level of the adjoining footway and occupies the majority of the appeal property's forecourt. It thus creates a prominent feature, exacerbated by the balustrade, which fails to reflect the predominantly open form of the forecourts along the parade. Moreover, the timber decking material appears incongruous in the context of the traditional materials utilised in the parade and surrounding area.
10. Whilst some other properties within the parade have timber structures on their forecourts, I note from the Council's evidence that there is no record of these structures benefitting from planning permission. Although the appellant refers to boundary treatment which could be erected under permitted development rights, there are no details of such a scheme before me. I have no evidence that the timber decking is necessary for the safe storage of delivery bikes on the forecourt. There is no reason to believe that inclusive access to the appeal property could not be secured through more sympathetic means. I therefore give these matters little weight. I have reached my conclusions on the basis of the evidence before me and the individual site circumstances.
11. In view of the degree of separation between the appeal site and buildings on the east side of Kentish Town Road, I am satisfied that the development preserves the setting of the nearby Grade II listed buildings and the setting of the Conservation Area. However, an absence of harm in respect of these matters is a neutral factor that does not weigh for or against the development.

12. For the reasons set out above I conclude that the development has a harmful effect upon the character and appearance of the appeal property and the parade as a whole and thus fails to accord with the design aims of Policy D1 of the London Borough of Camden Local Plan (the LP) and Policy D3 of the Kentish Town Neighbourhood Plan (the NP).

### *Appeal B*

13. In accordance with the Regulations<sup>1</sup>, I have taken into account the provisions of the development plan so far as they are material. As both LP Policy D1 and NP Policy D3 relate to development they are not directly relevant to the appeal scheme, and so I have not had regard to them in this case. LP Policy D4 requires advertisements to preserve or enhance the character of their setting and host building, respect the form, fabric, design and scale of their setting and host building and be of the highest standard of design, material and detail. This is consistent with paragraph 67 of the National Planning Policy Framework, which states that poorly placed advertisements can have a negative impact on the appearance of the built environment. I have therefore taken this policy into account as a material consideration, although it has not in itself been decisive.
14. As set out in the Planning Practice Guidance<sup>2</sup>, in assessing amenity regard should be had to the local characteristics of the neighbourhood. The parade contains commercial uses with a variety of associated advertisements. The fascia sign at the appeal property is similar in width and depth to other signs within the parade and the level and hours of illumination could be controlled by condition. However, whilst most of these other signs have a fairly limited depth and generally do not project much beyond their respective shopfront, the fascia sign on the appeal property has a significant depth and extends noticeably beyond the otherwise flush front elevation. As a result it has a bulky and dominant appearance and is prominent within the parade as a whole.
15. On the basis of the evidence before me and my observations on site, given the degree of separation between the appeal property and development on the east side of Kentish Town Road, I am satisfied that the advertisement does not result in harm to nearby designated heritage assets or residents' living conditions. However, an absence of harm with regard to these matters is a neutral factor which does not weigh for or against the appeal scheme.
16. For the foregoing reasons I conclude that the advertisement is a prominent, dominant and incongruous feature which has a harmful effect on amenity. As far as such matters are material the advertisement is therefore contrary to the provisions of LP Policy D4 which seeks to preserve amenity.

### **Conclusions**

17. For the reasons set out above, and having had regard to all other matters raised, I conclude that Appeal A and Appeal B should be dismissed.

*CL Humphrey*

INSPECTOR

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<sup>1</sup> Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

<sup>2</sup> Paragraph: 079 Reference ID: 18b-079-20140306