



**TOWN & COUNTRY PLANNING ACT 1990 (as amended)**

**PROOF OF EVIDENCE**

Angela Ryan BA (Hons) Town Planning Studies for Public Inquiry commencing on 19<sup>th</sup> March

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**APPEAL SITE:**

Delancey Street Car Park, London, NW1

**APPELLANT:**

Ms Moe Wurr of Goldschmidt & Howland LTD

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**SUBJECT OF APPEAL**

Appeal against the London Borough of Camden's refusal of advertisement consent for the display of advertisement on boundary wall

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**COUNCILREFERENCE:** 2017/5628/A

**PLANNING INSPECTORATE REFERENCES:** APP/X5210/Z/3194410

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- i. I, Angela Ryan have prepared this proof of evidence for presentation at the Public Inquiry into the appeal. I hold Bachelor of Arts with Honours Degree in Town Planning Studies from Southbank University.
  
- ii. Since August 2001, I have been working in Camden Council's Local Planning Authority. I started in the Policy Team doing project work and moved into the King's Cross Team in 2007, a team specifically set up to deal with the application for the large development site – King's Cross Railway Lands (now known as King's Cross Central). I then moved into Development Management in 2011, and then into Enforcement in 2013. Prior to this, I worked as a Planning Officer at the London Borough of Hackney. During this time I have dealt with projects, a wide range of planning applications including major, minor and householder development proposals. Currently, I deal with minor and complex enforcement cases.
  
- iii. I am familiar with the appeal site. The evidence that I have provided for this appeal is accurate to the best of my ability and I confirm that any professional opinions expressed are my own.

#### **Structure of Evidence**

- iv. In my evidence, I provide a summary of the application which is the subject of the appeal and the process undertaken leading to the refusal. I identify and summarise the policy framework under which the Council's decision was made. I deal with the Council's main reasons for refusal before addressing the Appellant's Grounds of appeal.
  
- v. My evidence will be divided into sections:  
  
Section 1 (Sites and Surroundings) I will describe the appeal site and surrounding area  
  
Section 2: (Planning History) I shall provide a summary of the planning history

Section 3: (Enforcement History) I shall provide a summary of the enforcement history

Section 4: (Planning Policy Framework)

Section 5: (Response to grounds of appeal)

Section 6: (Conclusion): I will summarise the arguments made in this proof)

Section 7: (Conditions)

Section 8 (List of Appendices)

vi. In addition to myself, the Council will call one other witness:

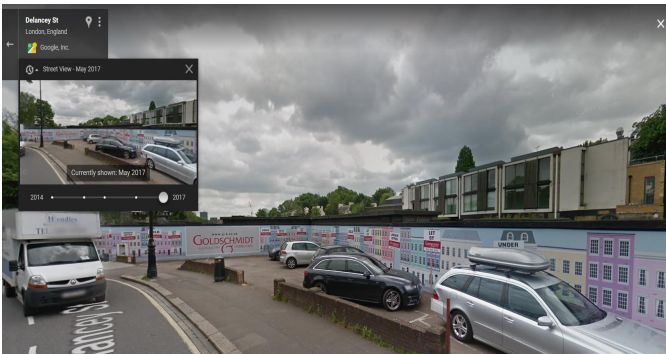
- **Collette Hatton** Conservation and Design Officer, who will provide further evidence regarding matters of impact on the setting of the conservation area and listed buildings

**1.0 SITE AND SURROUNDINGS**

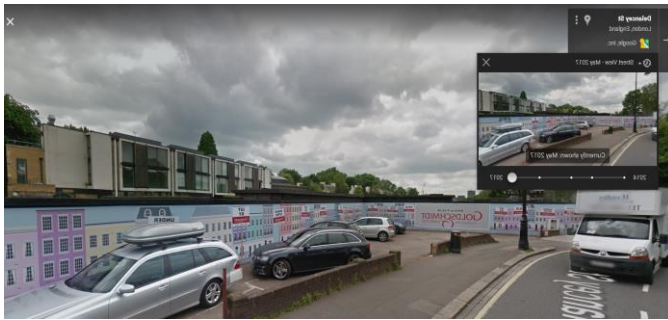
1.1 The site relates to a single-storey boundary wall of a car park located on the south side of Delancey Street near the junction with Parkway. The boundary of the Camden Town Conservation Area runs along the site’s northern edge, with the site lying just outside the conservation area boundary. The site is also located in close proximity to a large number of listed buildings.

1.2 Most of the buildings within the vicinity of the appeal site are statutory grade II listed, including the terrace located opposite the appeal site (Nos. 40-60 even, 62-82 & 68A, and 84 Delancey Street). To the west of the site and visible from within it are grade II listed buildings at nos. 119, 121 and 123 Parkway. The terrace to the east of the site in Mornington Terrace is GII listed, as is nos.29-41 (Odd) Delancey Street. The terraced dwellings in Mornington Terrace located to the east of the site are also listed, as is the listed public house located immediately to the south of the site (the Edinboro Castle).

1.3 Photos below shows current advert on boundary wall of car park



1. View looking south



2. View looking north



3. View from Delancey Street



4. View from Delancey Street looking north

## 2.0 RELEVANT PLANNING HISTORY

### 2.1 2007/2923/A - Display of 2no. floodlit advertisement hoardings on external wall of car Park. – Refused 20/11/2007

Reasons for refusal: *The proposed hoardings by virtue of their size, position and method of illumination would be detrimental to the visual amenities of the*

*streetscene and the character and appearance of this part of the Camden Town Conservation Area, contrary to policy B4 of the London Borough of Camden Replacement Unitary Development Plan 2006 and information contained within Camden Planning Guidance 2006.*

- 2.2 AE9800649-** The display of painted advertisements on the single storey brick boundary wall - **Granted 15/10/1998**

**Application subject to this appeal**

- 2.3** The application for advertisement consent (ref: 2017/5628/A) was registered on 18/10/2017. The application sought advertisement consent for:
- ‘Display of advertisement on boundary wall’.*
- 2.4** External consultation is not a statutory requirement for applications of this nature. However, an internal consultation period was undertaken that ran from 18/10/2017 to 08/11/2017.
- 2.5** The application was recommended for “refusal with warning of enforcement action” by Officers, and a decision notice was subsequently issued under delegated powers on 08/12/2018. The reason for refusal was:
- “The display of the advertisement, by reason of its size, scale, material, and prominent location, is an incongruent addition resulting in visual clutter which is harmful to the visual amenity of the streetscene, the character and appearance of the conservation area and the setting of the surrounding listed buildings, contrary to policies A1, D2 and D4 of the Camden Local Plan 2017.”*



### **3.0 RELEVANT ENFORCEMENT HISTORY**

- 3.1 11/08/1998-** complaint received in respect to the use of open land as a car park and 2 x advert hoardings ( Ref: EN981013). A site visit verified that the breach had ceased and therefore no further action was taken.
- 3.2 17/12/2012-** complaint received in respect to 3x Oliver's estate agents boards on car parking area (EN12/1095). The breach was ceased and the case was formally closed.
- 3.3 24/02/2017-** a complaint was received in respect to the erection of an advertisement hoarding in the car park (EN17/0237). This case is still under consideration, however, action is being held in abeyance until the outcome of this appeal.

### **4.0 PLANNING POLICY FRAMEWORK**

- 4.1** The text of the policies have been submitted with the questionnaire. The merits of the case have been considered in detail and assessed in the Officer's delegated report which was also submitted with the questionnaire.
- 4.2** The relevant Local Plan policies that are subject to this appeal regarding the unauthorised advertisement was assessed against in the delegated report are extracted below.

A1 (Managing the impact of development)

D2 (Heritage)

D4 (Advertisement)

### Supplementary Planning Guidance

**4.3** The relevant CPGs that the works were assessed against in the delegated report are:

- CPG1 (Design) 2015 – chapter 8 (Advertisements, signs and hoardings)
- CPG (Advertisements) 2018. It should be noted that this guidance was formally adopted subsequent to the refusal of advertisement consent. However, there has been no material change in the guidance that would have affected the Councils assessment of the application proposal

These Supplementary Planning Documents were adopted following extensive public consultation.

### Other policy guidance

- Town and country planning (Control of advertisement) Regulations 2007 (as amended)
- National Planning Policy Framework (2012)
- National Planning Policy Framework (2018). It should be noted that the framework was revised and adopted subsequent to the refusal of advertisement consent for the appeal proposal. There are no material changes to the policies contained in the guidance that would have affected the Council assessment of the application proposal.

## 5.0 RESPONSE TO GROUNDS OF APPEAL

### Grounds of appeal

5.1 There are three grounds of appeal:

- A) That the current advertisement benefits from having deemed consent
- B) That express consent was not required, and even if it were, consent should have been granted
- C) That that advertisement does not have an impact on amenity and there are no heritage impacts

### A) Deemed Consent

5.2 Paragraphs 18-24 of the Appellant's grounds of appeal argues that the Goldschmidt and Howland advertisement benefits from deemed consent. The Council's overall position is the Goldschmidt and Howland advertisement does not benefit from deemed consent because it is materially different to consent AE9800649 granted on 15<sup>th</sup> October 1998 (therefore whether or not deemed consent exists for the expired consent AE9800649 is irrelevant)

### 5.3 The Law

5.3.1 Class 13 of the Town and Country Planning (Control of Advertisements) Regulations 2007 (as amended) ("the Advertisement Regulations"), effectively grants deemed consent under the Advertisement Regulations for an advertisement displayed on a site that has been used continually for the preceding ten years for the display of advertisements without express consent.

5.3.2 Paragraph 13 (1) of the regulations state that *“an advertisement does not fall within this description if, during the relevant 10-year period, there has been either a material increase in the extent to which the site has been used for the display of advertisements or a material alteration in the manner in which it has been used”*.

5.3.3 Whether or not there has been a material change is a question of fact and degree to be judged with reference to considerations of amenity and public safety, those being the criteria by which the Council’s powers are to be exercised under Regulation 3 (1) of the Advertisement Regulations, see *R v Maiden Outdoor Advertising v Lambeth LBC* [2004] JPL 820 (**Appendix 5**).

5.3.4 Separate consent is also required for an advertisement that is materially or substantially different (applying the same approach as above) to the advertisement that was previously on a site (notwithstanding any deemed consent under Class 13 for any previously existing advertisement); see e.g. *R (Clear Channel UK Limited v Southwark LBC* [2007] JPL 927 (**Appendix 6**)).

#### **5.4** History of advertisements at the site

5.4.1 Advertisement consent was granted to Parkways on 15 October 1998 (ref. AE9800649) for five years the display of painted advertisements on the single-story brick wall (“the Parkways display”)

**Photo1- Google Street view of the Parkways Signs/Logos-**

**July2008-DelanceyStreet**



5.4.2 At some point between July 2008 and May 2012 the Parkway advertisement was replaced with a new painted display advertising Oliver's Town ("the Oliver's Town display")

**Photo 2. Google Street view- Oliver's Town advert July 2012- looking due south**



Photo 3- Google Streetview- Oliver's Town Advert 2012- looking due north



5.4. 3. In May 2017 the Oliver's Town Display was replaced with the current display ("the Goldschmidt & Howland display

Photo 4- Google Street View- Appeal Advert May 2017- looking due south



Photo. 5- Google Street View- Appeal advert Delancey Street- May 2017



### Photo 6- Google Street View- Appeal advert- May 2917- looking due north



## 5.5 Analysis

5.5.1. The Council's position, in summary is that the Parkways display is materially different from the Oliver's Town display and the Oliver's Town display is materially different to the Goldschmidt and Howland display

5.5.2. The Parkway's Display is materially different to the Oliver's Town display because the Parkway's advertisement displayed a number of painted logos on directly the wall that were significantly smaller than the Oliver's Town advertisement. The painted logos did not take up the entire wall's surface and did not incorporate a painted mural in between the advertisements as did the Oliver's Town Signs.

5.5.3. The Oliver's Town display is materially different to the Goldschmidt and Howland's advertisement in that the advertisements were hand-painted



directly onto the wall and did not comprise a series of boards incorporating digital images set on vinyl sheeting displayed on boards. The Oliver's Town signs were also less and did not have smaller signs incorporated within the mural and were smaller than the Goldschmidt and Howland advertisement displays. There were notable sections of the wall that did not display any form of advertising, including the easternmost section of wall and the adjacent wall and service door, and a second section of wall with a covered service door near the western end, and the mural solely depicting buildings that was painted in between. These sections are now covered by the current advertisements and depictions of estate agents boards at regular intervals. The advertisement boards is materially more substantial in scope and visual impact than the former painted signs and mural and is therefore considered to be a material alteration.

- 5.5.4 The advertisement is printed on separate structures that are affixed to the wall and joined at the edges to form one contiguous advertising board. The boards incorporating vinyl surfaces extends across the length of the wall including the sections containing the service doors that were formerly free of advertisements. The advertisement also features visual depictions of estate agents boards, which are incorporated and repeated at frequent

intervals within the advert along the length of the wall and this is therefore considered to be a material increase.

### **Conclusion**

- 5.6** Therefore there is no deemed consent for any advertisement display at the site because the requirements of Class 13 have not been met.

### **B) Express Consent**

- 5.7** Paragraphs 25 and 26 of the Appellant's grounds of appeal argues that express consent should have been granted by virtue of the continual use of the site for large scale advertisements since around 1998, and the decision of the Council at that date, in the light of both the listed buildings within the locality and the Conservation Area to grant express consent for large scale advertisements over the entire wall
- 5.8** That the fact that no action has been taken for a number of years in relation to other advertisement displays on the wall does not mean that the Council should automatically grant advertisement consent for unacceptable advertisement displays at the point that the Council became aware. The proposal was subject to a detailed assessment and the Council is of the opinion that express consent should not have been granted.

The previous advertisement consent

- 5.9** Advertisement consent was granted to Parkways on 15/10/1998 (ref. AE9800649) for “The display of painted advertisements on the single storey brick boundary wall.” Both the decision notice and the application form refer to 6 x multiple advertisements / logos. The application form states “Largest logo – approx. 35’ x 5’ as further evidence that the display was considered to comprise multiple separate advertisements. Going by the measurements stipulated in the application submission, the largest logo approved was approximately 0.1m<sup>2</sup> and was painted directly onto the wall. This would indicate that the display of the advertisement was significantly different to the Oliver’s Town advertisements which comprised larger advertisement displays on the eastern and western walls, thus being more visible. As such, the smaller Parkway signs would have been less obtrusive, not dominating the wall, thus providing some relief, and would therefore not have been as readily visible from the street thus not detracting from the visual amenity of the locality. The Parkway consent was granted for a temporary period of 5 years and expired 14 October 2003. The display was not removed after the 5 year period, with no application being made for its retention and the Council did not formally request its removal.
- 5.10** The granting of a previous advertisement consent does not purport to say that alternative advertisement proposal would be acceptable at the site. The approval of painted logos on the wall was duly assessed and considered acceptable in the circumstance.

### Impact on Amenity

- 5.11** As discussed above, the approved proposal differs from the current advertisement hoardings being displayed at the site. The boards with a vinyl surface cover almost the entire length of the wall and fundamentally changes its character. The material is recognisable as being fixed over the wall, obliterating the 'brick' fabric behind. The boards appear modern and uniform in contrast to the textured character of the wall that they obscure.
- 5.12** The proposed advertisement features realistic depictions of estate agents boards, which are repeated at frequent intervals along the length of the wall. The repeated printed images/advertisements within a much larger advertisement have a similar visual impact to the display of multiple estate agents boards within the streetscene, which is perceived as visual clutter to the detriment of visual amenity.
- 5.13** The graphics contained within the advertisement are highly visible and much more prominent when viewed from the junction with Parkway and also in longer views along Delancey Street. Whilst the display is not a hoarding, its scale has a similar impact on the streetscene to a hoarding, and is considered to cause harm to the visual amenity of the site and immediate area.

- 5.14** It is considered that the size, character and siting of the advertisements is such that it is unduly dominant, and cannot be considered an appropriate feature to this prominent boundary wall as it is considered to be an over dominant display, thus making it visually conspicuous to the detriment of the visual amenity of the area.
- 5.15** Policy D4 of Camden's Local Plan say the Council will require advertisements to preserve or enhance the character of their setting and host building. Advertisements must respect the form, fabric, design and scale of their setting and host building and be of the highest standard of design, material and detailing. This is supported by paragraph 1.8 of Camden Planning Guidance on Advertisements states that 'advertisements and signs should respect the form, fabric, design and scale of the host building and setting. All signs should serve as an integral part of the immediate surroundings and be constructed of materials that are sympathetic to the host building and the surrounding area.'
- 5.16** Paragraph 1.11 of the CPG1 on advertisements further states that 'advertisements in conservation areas and on or near listed buildings require detailed consideration given the sensitivity and historic nature of these areas or building.
- 5.17** The advertisement is considered to be contrary to policy D4 and also the objectives as set out in Camden's Planning Guidance on advertisements and is therefore unacceptable.

Public safety

- 5.18** Paragraph 27 of the Appellant's grounds of appeal confirms that is no pulic safety basis on which to refuse consent.. The Council is of the opinion that that advertisement application does not warrant a refusal on the grounds of public safety

Impact on the setting of the Camden Town Conservation Area and the setting of listed building

- 5.19** The appellant argues in paragraphs 32-34 hat the advertisement does not have any adverse impact on the setting of the conservation area or listed buildings.

Policy D2 of the local plan states the following:

*'The Council will preserve and, where appropriate, enhance Camden's rich and diverse heritage assets and their setting, including conservation area, listed building, archaeological remains, scheduled monuments and historic parks and gardens and locally listed heritage assets'*

- 5.20** The character of the conservation area and listed buildings establishes that the materiality of the buildings contributes significantly to the character of the area. The previously painted brick wall on the site, as a result of the dimensions, depth and texture of the bricks contributed to the established character and therefore the setting of the heritage assets. The flat and shiny qualities of the applied vinyl are distinctly different from the qualities of the brick and do not

contribute to the exceptional architectural merits of the neighbouring historic environment.

**5.21** Heritage matters will be discussed/addressed by my Conservation Colleague.

**6.0 Conclusion.**

**6.1** I have demonstrated that neither the Oliver's Town Advertisement or the Goldschmidt & Howland Advertisement benefits from deemed consent. The Goldschmidt & Howland advert is also contrary to policies D2 (heritage) and D4 (advertisements) and is therefore considered to be unacceptable development. For the above reasons the inspector is respectfully asked to dismiss the appeal.

**7.0 Conditions**

**7.1** As the works have already been carried out. Conditions cannot be attached which would control the development. The Council is unable to suggest any enforceable conditions that would mitigate the impact of the development.

**Angela Ryan: 19<sup>th</sup> February 2019**





## List of Appendices

Appendix 1- Relevant sections of the Town and Country Planning (Control of Advertisement) Regulations 2007 (as amended)

Appendix 2- Relevant Planning Policies from Camden's Local Plan 2017

Appendix 3- Relevant sections of National Planning policy guidance 2016

Appendix 4- Camden's Planning Guidance- Advertisements 2018

Appendix 5- Appeal Decision - *R v Maiden Outdoor Advertising v Lambeth LBC* [2004] JPL 820

Appendix 6- Appeal Decision - *R (Clear Channel UK Limited v Southwark LBC* [2007] JPL 927

Appendix 7- Correspondence and notes in connection with the applications (from London Borough of Camden files, the applicants, external bodies and third parties

