
Appeal Decision

Site visit made on 5 September 2021

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 01 October 2021

Appeal Ref: APP/X5210/G/21/3270971
278 Kilburn High Road, London NW6 2BY

- 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 Mr Richard Page of Wildstone against discontinuance action by the Council of the London Borough of Camden.
 - The Council reference is EN20/0131. The Discontinuance Notice is dated 14 January 2021.
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Decision

1. The appeal is dismissed. I direct that the Discontinuance Notice (the DN) shall be corrected by:
 - a) the deletion of the word '*digital*' from paragraph 3 of the DN;
 - b) the deletion of the word '*digital*' from The First Schedule Description of the Site; and
 - c) the deletion of the word '*digital*' from The Second Schedule Reasons for Serving the Notice.
2. Subject to those corrections, I direct that the DN shall come back into effect immediately and that the use of the site for the display of an advertisement with deemed consent cease by the end of 8 weeks from the date of this decision.

The Discontinuance Notice

3. The appellant contends that the DN contains a number of errors which cause confusion. Firstly, it is argued that the reference number for the Notice is the same as a DN that was previously withdrawn by the Council. However, although the reference EN20/0130 appears to have been used in error on a covering letter, it is clear to me that the reference number used on the DN the subject of this appeal is EN20/0131. Therefore, I do not agree that there is any potential confusion caused by the reference numbering.
4. Furthermore, the appellant draws attention to the First Schedule Description of Site which refers to '*installation of an illuminated digital advertisement sign*' and the Second Schedule Reasons for Serving the Notice which refers to '*the illuminated digital advertisement*' and then goes on to state that the advertisement '*by virtue of its size, scale, location, method of illumination, and orientation(facing the Grade II* listed public house) is an incongruous and*

bulky feature'. The Council has acknowledged that the current advertisement is not a digital display and that use of the word '*digital*' is an error. I am satisfied from the evidence before me, including the Enforcement Delegated Report, that the advertisement has been assessed on the basis of it being an illuminated advertisement sign and not a digital sign.

5. Other than the word '*digital*' the DN is correct and it tells the appellant fairly what he has done wrong and what he must do to remedy it. As such it is not defective on its face. Section 79 of the 1990 Act, as modified by Schedule 4 Part 5 of the Regulations, enables the Secretary of State at appeal to allow or dismiss the appeal or to correct any defect, error or misdescription in a DN. The courts have supported the view that unless there is an identifiable injustice to one or more parties involved, the Secretary of State's powers of correction can be widely applied.
6. In this case I am satisfied that the appellant knows what he has done wrong and what he must do to remedy it and therefore the DN can be corrected without causing him injustice.

Main Issue

7. The main issue is whether the continued use of the site for the display of an advertisement would cause substantial injury to amenity.

Reasons

8. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration. I have also taken account of the London Plan (March 2021) which supersedes the London Plan 2016 and the revised National Planning Policy Framework July 2021 (the Framework). However, powers under the Regulations to control advertisements may only be exercised in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal the Council's policies have not therefore, by themselves, been decisive. The site lies within the setting of the Grade II* listed Black Lion Public House and in reaching my decision I have paid special attention to the desirability of preserving or enhancing its setting.
9. The site is the side wall of a four-storey building. There is an internally illuminated 48-sheet advert sign affixed to this wall at first floor level. The ground floor of No 278 is occupied by a commercial use with residential use on the upper floors and the site lies in a busy and vibrant commercial area. Adjacent to the sign is a soft landscaped area and access from Kilburn High Road to Kilburn Grange Park, which is a non-designated heritage asset on the Council's Local List given its historic importance and value as an area of open space.
10. Directly opposite the existing sign is the Grade II* listed three-storey Black Lion public house built in 1898. The building was first listed in May 1974 and the listing specifically refers to external elevational details including materials, style, window detailing and other architectural features of particular interest and historic value. The listed building dominates the immediate area with its rather dramatic style and architectural detailing.
11. Of particular importance in this case is the effect on the setting of the Black Lion public house. The facades of the building, including the one directly

opposite the advertisement are of particular interest with respect to their architectural detailing. The significance of the setting of the listed building lies in its relationship to Kilburn High Road and the adjacent access into the locally listed park where it forms a visually dominant and architecturally striking feature within the street scene.

12. The advertisement measures approximately 6 metres by 3 metres and is constructed in a particularly bulky box type structure which protrudes significantly beyond the flank wall of the host building. It covers a significant part of the wall at first floor level and, although there is a great deal of commercial activity and advertisements are displayed a ground floor in the area, the display contrasts greatly with the residential character of the upper floors of buildings in the vicinity.
13. Furthermore, the gap between the appeal building and the Black Lion public house is significant in providing a landscaped access between the busy High Street and the relatively open and verdant Kilburn Grange Park which is situated to the rear of the buildings which flank the east side of Kilburn High Road. The gap also serves to provide a relatively open aspect towards the Black Lion public house.
14. The advertisement is back lit using strip lighting and it is contended that it meets best practice guidance for roadside advertising. It is clearly not a digital display, but as a consequence of its overall scale and the extent of illumination in this locality I do not consider it to be appropriate and it causes significant injury to the amenity of the area. I appreciate that the host building has a strong commercial presence at ground floor level and that to a degree the advertisement would be seen within a mixed commercial and residential context, but in terms of its overall size, scale and illumination it contrasts greatly with the access into the historic park, the area's upper floor residential character and the important heritage asset, opposite.
15. The existing advertisement and the facades of the Grade II* listed building are seen in conjunction with one another from the access to the park, Kilburn High Road and the immediate vicinity. As such it is not only harmful to the setting of the heritage asset and in particular the appreciation of the architectural and historic quality of the well-maintained facades, but it is also detrimental to the public access route to the park.
16. The appellant acknowledges the vibrant nature of the advertisement and its striking appearance but considers these to be positive attributes within the commercial area. In some circumstances that may be the case, but I do not consider it to be suitable for such a historically sensitive setting and in such a prominent first floor location which is visible from visually sensitive parts of the public realm.
17. The higher test with respect to DNIs is substantial injury and in this particular case, given the size, scale, location, illumination and orientation of the advertisement in such close proximity to Kilburn High Road, a Grade II* listed building and an historic park, the advertisement in question is substantially injurious. Therefore, for the reasons I have set out above I shall dismiss the appeal and uphold the notice.

A A Phillips INSPECTOR