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## Appeal Decision

Hearing held on 18 February 2014

Site visit made on 18 February 2014

**by Alan Novitzky BArch(Hons) MA(RCA) PhD RIBA**

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

**Decision date: 4 March 2014**

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**Appeal Ref: APP/X5990/H/13/2205970**  
**9 Old Compton Street, London W1D 5JF**

- 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 display of an advertisement with deemed consent.
  - The appeal is made by Moor Street Ltd against discontinuance action by City of Westminster Council.
  - The Council reference is Enforcement RUD 12/50181/N. The Discontinuance Notice is dated 23 July 2013. The advertisement concerned is neon signs within the windows and transom lights of the projecting section of the ground floor shopfront at 9 Old Compton Street as identified as 1, 2, 3, 4, 5 and 6 on Photographs 'A', 'B' and 'C' attached, which have been displayed in jest and bear no relation to the actual lawful use of the premises as a Class A3 restaurant. The neon signs comprise neon fluorescent tubes that have been shaped to form lettering that states 'Adult Video', 'Peep Show', 'Girls, Girls, Girls' and 'Live Nude' together with associated sexualised symbols.
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### Decision

1. The appeal is allowed and the Discontinuance Notice quashed.

### Main Issue

2. Whether the advertisement display gives rise to substantial injury to amenity through its effect on the character and appearance of the host building, the settings of nearby listed buildings, or the Soho Conservation Area as a whole.

### Reasons

3. The advertisement display consists of neon tubing formed into lettering and imagery. It occupies all of the glazed area of the host building's traditional shop front, with boarded backings preventing vision through to the interior. It is common ground that the display benefits from deemed consent.
4. In terms of its design, size and method of illumination, the display is not in principle out of place in the Conservation Area. The Area contains many conspicuous and garish displays which comprise part of its vibrant character. The design and size of the display is not untypical of displays within the Area and there are examples of neon displays in shop windows as well as at fascia level. The content of the display is not directly relevant to present considerations but it is certainly not alien to the traditional character of the Area.

5. Regarding the location of the appeal display, the host building is part of a section of the fabric between Old Compton Street and Moor Street redeveloped in recent years, continuing the existing pattern of urban enclosure and taking its place within the street scene in an unassertive manner. Generally, the focus of attention falls on the run of shop frontages at street level rather than the façade above. The character and appearance of the host building, which forms a neutral background capable taking a variety of displays, is not harmed by the appeal display, either during the day when the visual presence of the buildings above ground floor level is greatest and that of the display least, or at night when the reverse is the case.
6. The appeal display is sited towards the eastern end of Old Compton Street, some distance from the heart of Soho. Amongst the conventional shop and restaurant windows with fascia and hanging signage, within the immediate area, it is one of the more striking displays. It is near to Charing Cross Road where the character changes to a more ordered, less demonstrative street frontage. Nevertheless, glimpses into the heart of Soho from surrounding streets are characteristic of the setting of Soho.
7. In this case, the extensive window display of the building occupying the corner site between Old Compton Street and Charing Cross Road provides a bright and vivid point of reference. Following this initial impression, the appeal display draws the eye along Old Compton Street towards the denser visual activity of Soho. In doing so, the local character and appearance of the area is not harmed.
8. There are several Grade II listed buildings in the locality, including the corner building already noted and a number of much altered buildings of late 17<sup>th</sup> or early 18<sup>th</sup> century origins. The corner building is a highlight within the general matrix, in high Edwardian neo-baroque, highly modelled with contrasting bands of jade glazed brick and yellow sandstone. In many ways it marks an entry into Soho. The smaller scale appeal display, three or four frontages down the street, does not compete with the listed building or otherwise reflect harmfully on its setting.
9. The other listed buildings already mentioned may be significant for the survival above ground floor level of their early plan form and some internal features as well as the basic rhythm of the façade. Like the host building, they form an important but largely neutral backdrop enclosing the street above ground floor level and as such do not engage directly with the street level frontages. In my view, their setting is not harmed by the appeal display, either during the day or at night.
10. Turning to the effect on the Conservation Area as a whole, as already noted, the display does not conflict in principle with the Area's character and appearance. I do not think that the fact that the neon display is confined to the window area and does not feature on the fascia is significant in itself. Precedent exists for fairly comprehensive neon displays within shop windows. However, where these occur, they generally also offer visual access to the interior of the building. Further, where windows are deliberately obscured, there are generally opportunities for glimpses into active interiors through recessed entrances or by other means.
11. Some harm arises from the deadening effect of the lack of visual access beyond the glazed area. Were this to become widespread within the

Conservation Area, it would have a harmful effect through lack of visual interest in depth along the street frontage both during the day and at night. However, on its own, the appeal display does not result in such substantial injury. I find that the display preserves the character and appearance of the Conservation Area.

12. Reference is made to development plan policy and to the National Planning Policy Framework. Although these may be material considerations, I must determine the appeal in relation to the effect on amenity and public safety. No harm to public safety has been demonstrated, and the effect on amenity is insufficient for the appeal to be dismissed. I have considered the appeal decision<sup>1</sup> put forward by the appellant but this concerns a different kind of advertisement in different surroundings and offers no direct parallels.
13. I conclude overall that the advertisement display is acceptable. It does not give rise to substantial injury to amenity through its effect on the character and appearance of the host building, the settings of nearby listed buildings, or the Soho Conservation Area as a whole.

**Alan Novitzky**

Inspector

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<sup>1</sup> APP/X5990/H/12/2179719

**APPEARANCES**

FOR THE APPELLANT:

David Whittington	Planning Consultant
Tim Taylor	Solicitor
Mr Ricker	Owner

FOR THE LOCAL PLANNING AUTHORITY:

Nge Inyang	Senior Planning Officer
Matthew Pendleton	Area Conservation Officer

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