

MEMORANDUM

To: Executive Director, Planning and Conservation
Local Land Charges

From: Director of Legal Services

RECEIVED BY PLANNING SERVICES

Our Ref: LJ/MS
Room No: 313

DC N	DC C	DC S
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Your Ref: Pat Vallely
Martyn Coy
John Stevens
Lloyd McBurnette

09 APR 1996

148

Ext: 2118

Exec Dir	Replies	Date
Appeals Office	IO	3 April 1996

Date: 3 April 1996

Town and Country Planning Act 1990 (as amended)
Town and Country Planning (Control of Advertisement) Regulations 1992
Discontinuance Notice
457 Fulham Road, London SW10

With reference to the above, I write to advise you that the Discontinuance Notice has been issued and copies served on all interested parties.

I set down below details of the Discontinuance Notice for insertion in the Enforcement Register:-

- (a) Address of Property 457 Fulham Road, London W10
- (b) Issuing Authority Royal Borough K&C
- (c) Date of Issue 3 April 1996
- (d) Service of Copies:

<u>Name</u>	<u>Address</u>	<u>Date of Service</u>
Frank Cheung	Kingdom Chinese Cuisine 457 Fulham Road London SW10 7UZ	3 April 1996
Rosalind Dickson	1 Vicarage Close Seer Green Beaconsfield, Berks HP6 2QP	3 April 1996
Aeon Trading Company Limited	457 Fulham Road London SW10	3 April 1996
CB Advertising	Flat 1 8 Oxford Road North London W4 4DN	3 April 1996
Cal Brown Limited	Park House Kirtley Drive Castle Marina Nottingham NG7 1LQ	3 April 1996

The Owner	457 Fulham Road London SW10 7UZ	3 April 1996
The Occupier	457 Fulham Road London SW10 7UZ	3 April 1996

- (e) Summary of alleged breach and requirements: causing harm to the visual amenity of the area.
- (f) Date on which Notice takes effect: 17 June 1996
- (g) Time for Compliance: one calendar months from Notice taking effect.

I attach hereto a copy of the Discontinuance Notice for your file, and an additional copy of this Memorandum for submission to the Department of the Environment if required.

Louise Jackson

Louise Jackson
For Director of Legal Services

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

Town and Country Planning Act 1990

Town and Country Planning (Control of Advertisements)
Regulations 1992

**DISCONTINUANCE NOTICE
457 Fulham Road London SW10**

TO: Frank Cheung, Kingdom Chinese Cuisine, 457 Fulham Road, London SW10 7UZ
Rosalind Dickson, 1 Vicarage Close, Seer Green, Beaconsfield, Berks HP6 2QP
Aeon Trading Company Limited, 457 Fulham Road, London SW10
CB Advertising, Flat 1, 8 Oxford Road North, London W4 4DN
Cal Brown Limited, Park House, Kirtley Drive, Castle Marina, Nottingham NG7 1LQ
The Owner, 457 Fulham Road, London SW10 7UZ
The Occupier, 457 Fulham Road, London SW10 7UZ

WHEREAS

1. The Royal Borough of Kensington and Chelsea ("the Council") is the local planning authority for the purposes of Regulation 8 of the Town and Country Planning (Control of Advertisements) Regulations 1992 ("the Regulations") for the area in which the site used for the display of advertisements and specified in Schedule 1 to this notice ("the Site") is located.
2. The Site is used for the display of advertisements with deemed consent under Regulation 6 of the Regulations.
3. The Council is satisfied that it is necessary to serve this notice to remedy a substantial injury to the amenity of the locality.

THE COUNCIL GIVES NOTICE THAT

1. The Council requires the discontinuance of the use of the Site for the display of advertisements.

2. This notice shall take effect (subject to the provisions of Regulations 8(4) and (5) of the Regulations) on 17 June 1996.
3. The use of the Site for the display of advertisements is to be discontinued within one month after the date on which this notice takes effect.
4. The reasons for the service of this notice are set out in Schedule 2 to this notice.

SCHEDULE 1

The flank wall of the building known as 457 Fulham Road, London SW10 currently being used for the display of an illuminated ultravision advertisement hoarding at first and second floor levels. 457 Fulham Road is shown delineated in red on the attached plan.

SCHEDULE 2

1. The advertisement hoarding by reason of its size and prominent positioning is harmful to the street scene, causing substantial injury to the visual amenity of the area.
2. The advertisement hoarding dominates the small building and has an over bearing affect which is out of character and harms the appearance of the property to which it is attached. It is considered to be an incongruous feature which fails to integrate with the built form in this setting, being insensitive and incompatible with the scale, height, bulk and character of the surroundings.
3. The use of the Site for the display of advertisements is considered unacceptable on amenity grounds.
4. The advertisement at the Site is displayed contrary to the policies expressed in Chapter 4 of the Unitary Development Plan, in particular policies CD27 and CD76.

DATED this 3rd day of April 1996

Signed:
A G Phillips - Director of Legal Services
(The Officer appointed for this purpose)
The Town Hall, Hornton Street, London,
W8 7NX

IT IS IMPORTANT THAT YOU SHOULD READ THE ENCLOSED NOTES



THE TOWN AND COUNTRY PLANNING (CONTROL OF ADVERTISEMENTS) REGULATIONS 1992

Discontinuance of deemed consent

8.-(1) The local planning authority may serve a notice requiring the discontinuance of the display of an advertisement, or the use of a site for the display of an advertisement, for which deemed consent is granted under regulation 6 if they are satisfied that it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public: but in the case of an advertisement within Class 12 in Schedule 3, they may not do so if the advertisement is also within Class F or Class G in Schedule 2.

(2) A discontinuance notice-

shall be served on the advertiser and on the owner and occupier of the site on which the advertisement is displayed;

(b) may, if the local planning authority think fit, also be served on any other person displaying the advertisement;

(c) shall specify the advertisement or the site to which it relates;

(d) shall specify a period within which the display or the use of the site (as the case may be) is to be discontinued; and

(e) shall contain a full statement of the reasons why action has been taken under this regulation.

(3) Subject to paragraphs (4) and (5) below, a discontinuance notice shall take effect at the end of the period (being at least 8 weeks after the date on which it is served) specified in the notice.

(4) If an appeal is made to the Secretary of State under regulation 15, the notice shall be of no effect pending the final determination or withdrawal of the appeal.

(5) The local planning authority, by a notice served on the advertiser, may withdraw a discontinuance notice at any time before it takes effect or may, where no appeal to the Secretary of State is pending, from time to time vary a discontinuance notice by extending the period specified for the taking effect of the notice.

(6) The local planning authority shall, on serving on the advertiser a notice of withdrawal or variation under paragraph (5) above, send a copy to every other person served with the discontinuance notice.

Appeals to the Secretary of State

15.-(3) Where a discontinuance notice is served under regulation 8, sections 78 and 79 of the Act shall apply subject to the modifications specified in Part V of Schedule 4.

Contravention of Regulations

27. A person displaying an advertisement in contravention of these Regulations shall be liable on summary conviction of an offence under section 224(3) of the Act to a fine of an amount not exceeding level 3 on the standard scale and, in the case of a continuing offence, one-tenth of level 3 on the standard scale for each day during which the offence continues after conviction.

SCHEDULE 4

PART V

MODIFICATIONS OF THE ACT (DISCONTINUANCE NOTICES)

1. In section 78 for subsections (1) to (5) substitute-

"(1) Where a discontinuance notice has been served on any person by a local planning authority under regulation 8 of the Town and Country Planning (Control of Advertisements) Regulations 1992 that person may, if he is aggrieved by the notice, appeal by notice under this section to the Secretary of State.

(2) Notice of appeal shall be given in writing to the Secretary of State at any time before the date on which the discontinuance notice is due to take effect under regulation 8(3), taking account where appropriate of any extension of time under regulation 8(5), of those Regulations, or such longer period as the Secretary of State may allow, and the notice shall be accompanied by a copy of each of the following documents -

the discontinuance notice;

(b) any notice of variation thereof; and

(c) any relevant correspondence with the authority.

(3) Where an appeal is brought under this section, the Secretary of State may require the appellant or the local planning authority to submit to him, within such period as he may specify, a statement in writing in respect of such matters relating to the discontinuance notice as he may specify and if, after considering the grounds of appeal and any such statement, the Secretary of State is satisfied that he has sufficient information to enable him to determine the appeal, he may, with the agreement in writing of both the appellant and the local planning authority, determine the appeal without complying with section 79(2)."

2. In Section 79 -

for subsection (1) substitute-

"(1) Where an appeal is brought in respect of a discontinuance notice the Secretary of State may-

allow or dismiss the appeal, or

(b) reverse or vary any part of the discontinuance notice (whether the appeal relates to that part of it or not),

and may deal with the matter as if an application for express consent had been made and refused for the reasons stated for the taking of discontinuance action.";

- (b) for subsection (4) substitute-

"(4) On the determination of an appeal under section 78 the Secretary of State shall give such directions as may be necessary for giving effect to his determination including, where appropriate, directions for quashing the discontinuance notice or for varying its terms in favour of the appellant.";

- (c) omit subsection (6);

- (d) in subsection (6A), after the word "appeal" the first time it appears, insert "in respect of a discontinuance notice".

TOWN AND COUNTRY PLANNING ACT 1990

Enforcement of control as to advertisements

224.-(3) Without prejudice to any provisions included in such regulations by virtue of subsection (1) or (2), if any person displays an advertisement in contravention of the regulations he shall be guilty of an offence and liable on summary conviction to a fine of such amount as may be prescribed, not exceeding level 3 on the standard scale and, in the case of a continuing offence, [one-tenth of level 3 on the standard scale] for each day during which the offence continues after conviction.

(4) Without prejudice to the generality of subsection (3), a person shall be deemed to display an advertisement for the purposes of that subsection if-

he is the owner or occupier of the land on which the advertisement is displayed;
or

(b) the advertisement gives publicity to his goods, trade, business or other concerns.

(5) A person shall not be guilty of an offence under subsection (3) by reason only of his being the owner or occupier of the land on which an advertisement is displayed, or

(b) of his goods, trade, business or other concerns being given publicity by the advertisement,

if he proves that it was displayed without his knowledge or consent.