

November Case of the Month

Clear Channel UK Ltd
-v-
London Borough of Brent

1. On 16 November 2016 Clear Channel lost its appeal against a Removal Notice issued by Brent Council in respect of a 48 sheet digital led advertisement erected in place of a 48 sheet tri-vision hoarding.



Before



After

2. The Council accepted that the site had been used continuously for more than 10 years and the issue was whether or not "deemed consent" under Class 13 of Schedule 3 of the 2007 Regulations had been lost because:

13—(1) An advertisement does not fall within this description if, during the relevant ten 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 so used."

3. The Court heard evidence over 2 days and Clear Channel spent over £90,000 on its case, but Deputy District Judge Vickers preferred the evidence of Brent Council's witness, Nigel Wicks of Enforcement Services Ltd:

40..... the volume of the new hoarding, its movement forward from the flank wall and the additional steel supports that are clearly demonstrated by the photographs in Exhibit 4 at pages numbered 32, 134, 235 and 236 that is a threefold increase on the Trivision hoarding volume".

"41 The Court does not accept that the digital hoarding uses less of the site than the Trivision hoarding and as a consequence is satisfied that there has been a material increase in the extent to which the site has been used for the display of advertisements. Further the court is satisfied that the material increase is capable of having an adverse effect on the amenity of the area.....".

4. The court also found that the new method of display was capable of affecting the amenity of the area:

41. The digital internally lit screen is sharper and brighter than the Trivision display and is more eye-catching which is capable of affecting the amenity of the area.

5. The Judge advised Clear Channel that in future it might be advised to follow the advice offered by Mr Justice Blake in *JC Decaux v Wandsworth Borough Council*

[2009] EWHC 129 (*Amin*), and consult the Local Authority *before* making such changes.

6. This case demonstrates that, even when a site has been illuminated, used for sequential displays for more than 10 years and the size of display remains unchanged, the benefit of Class 13 may be lost by changes in the size of mountings or display methods.

If you have any questions about this case or require advice about the enforcement of advertisement control please contact Nigel Wicks of Enforcement Services Ltd on 07714 580273 or enforcementservices@btinternet.com