

Case Name: *Ocean Outdoor UK Ltd v Secretary of State for Housing, Communities and Local Government & Ors* [2025] EWHC 901 (Admin) (11 April 2025)

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Commentary: This was an unsuccessful statutory review brought by and advertising agency, Ocean Outdoor UK Limited ("the Claimant"), of an inspector's decision rejecting an appeal against the decision of the London Borough of Hounslow ("the Council") to refuse advertising consent.

The claim was brought on three grounds namely that the inspector had:

1. Breached the common law duty of fairness by failing to consider adequately whether there had been active marketing of the Site;
2. Breached the duty to take reasonable steps to acquaint herself with relevant information about the active marketing of the Site;
3. Failed to consider objective differences between Hounslow's planning policy and the Planning Practice Guidance

The Judge rejected the argument that inspector was under an enhanced duty, compared to a normal planning appeal, to seek further information from the Claimant on account of display of an advertisement without consent being a criminal offence, noting case law ruling that in planning enforcement appeals, where there is also the possibility of criminality if the enforcement notice is not complied with, the normal rule applies – only arguments put before the inspector need be entertained.

Facts

The site in question was the former Alfa Laval Building ("the Site"). The building is a former office building that has been empty since 1998 and has become an eyesore. At the time of the appeal it had been acquired by Hyundai Motor UK Limited ("Hyundai") who had halted redevelopment of the building to turn it into a car showroom under a 2016 planning permission.

Various temporary advertisement consents had been granted for the Site previously, both by the Council and the Secretary of State on appeal, the positive decisions citing the positive effect of shielding views of the "eyesore" building.

In June 2023, the Claimant applied to the Council for consent to display an advertisement on the building between 1 January 2024 and 31 December 2025. The officer report noted that redevelopment under the 2016 Planning Permission had stalled and that the display would have a "sense of perpetuity". Consent was refused as

the advertisement would be harmful to the amenity of nearby residents, contrary to local plan policy and the NPPF.

The Claimant appealed, stating the associated shroud would hide the “eyesore” building while a regeneration solution was being sought and that Hyundai was actively marketing the Site. It emerged after the appeal, in the context of this statutory review, that the Claimant had evidence of this active marketing but had not put it before the inspector.

The appeal was decided on written representations and refused as the advertisement would have a negative effect on amenity. The inspector found there was no substantive evidence to demonstrate that a buyer would be found during the renewal period sought, or that there was genuine interest in redevelopment the building, or that the building was being actively marketed. Although the building was an eyesore, there was other ways for that to be addressed. Therefore, the appeal was dismissed.

Grounds

The Claimant’s case had three grounds:

1. The inspector had breached the common law duty of fairness by failing to consider adequately whether there had been active marketing of the Site – having rejected the claim that active marketing was being undertaken she should have given the Claimant the chance to present further evidence, and the inspector was under an enhanced duty in this regard on account of display of an advertisement without consent being a criminal offence
2. The inspector breached the duty to take reasonable steps to acquaint herself with relevant information about the active marketing of the Site – on finding no substantive evidence of active marketing, any reasonable decision maker would have given the Claimant the opportunity to corroborate its evidence, through further written representations or allowing a hearing
3. The inspector failed to consider objective differences between Hounslow’s planning policy and the Planning Practice Guidance – the PPG refers to the effect of advertisements on buildings and the inspector had focused on that, whereas Hounslow’s policy refers to the effect on an area

Judgment

Timothy Corner KC, sitting as a Deputy High Court Judge, rejected ground one, finding that the inspector followed fair procedure. The onus was on the Claimant to put the relevant evidence relating to marketing of the site before the inspector and had

submitted a detailed statement of case and statement of common ground – the inspector was entitled to decide the appeal on the basis of the material put before her.

The Judge rejected the argument that inspector was under an enhanced duty, compared to a normal planning appeal, to seek further information from the Claimant on account of display of an advertisement without consent being a criminal offence, noting case law ruling that in planning enforcement appeals, where there is also the possibility of criminality if the enforcement notice is not complied with, the normal rule applies – only arguments put before the inspector need be entertained.

The Judge also rejected ground 2 (effectively an alternative way of presenting ground 1), noting the Claimant had had ample opportunity to put evidence of active marketing before the inspector and knew the issue was in dispute, so it was reasonable for the inspector to be satisfied that she had sufficient evidence to determine the appeal having considered the Claimant's submissions.

The Judge found no validity in ground 3, noting that appeal decisions are to be construed flexibly as they are written principally for parties who know what the issues are between them – inspectors' decision letters should not be laboriously dissected to find fault. On a fair reading of the decision letter, the inspector had taken account of the relevant planning policy and applied it correctly with reference to the effect on the area.

All grounds having failed, the claim was rejected.

Case summary prepared by Dougal Ainsley