



Appeal Decision

Site Visit made on 8 June 2021

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/N5090/Z/20/3254878

74 Ballards Lane, Finchley, London, N3 2BU

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Naseer against the decision of London Borough of Barnet.
 - The application Ref 19/6406/ADV, dated 29 November 2019, was refused by notice dated 23 March 2020.
 - The proposal is described as the retention of internally illuminated LED digital fascia sign.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The information contained on the application form includes details of the reasons for, and brief history of, the appeal proposals, as well as further information on specification. The description of development, in terms of precisely for which consent is sought, is set out in more concise and precise detail on the Council's decision notice. It is for these reasons I have used the description above. My use of the description does not alter the scheme for which consent is sought.

Main Issues

3. The main issues are a) the effect of the proposed sign on public safety, with particular regard to whether or not the sign would form a hazard to road users; and b) its effect on the visual amenity of the surrounding area.

Reasons

4. The appeal property is a ground floor retail premises located within a retail/commercial area. There is a mix of building types and operations with a corresponding mix of signage on the properties.
5. Ballards Lane is a relatively wide single carriageway road which in normal times is no doubt well trafficked given its strategic links north and south. Given the length of the shopping area and range of outlets it appears to be well used. Indeed, I observed during the course of my visit that the pedestrian crossing that is very close to the appeal site was in regular use.

Public Safety

6. The sign on the appeal property is, when travelling south west, partly obscured by an existing projecting sign on the next door premises. However, it can be seen clearly from other positions closer to the property or when travelling in

the opposite direction. On a bright, sunny day the sign is not overly prominent although by its very nature of being completely different to any other signs in the vicinity, it does nevertheless catch the eye. On less sunny days or in low light its prominence is likely to be greater.

7. Having viewed the sign on site, I am aware that the images themselves are static but the image does change after several minutes. I therefore consider it reasonable to assess the proposal on the basis of it being a non-static illumination.
8. Although the sign changes display approximately every 3 minutes, this does not make the sign and thus the nature of the non-static illumination more acceptable. This is because passing road users will not be expecting the sign to change, and so when it does, this may be a surprise and the result will be to draw attention to it, even if only fleetingly. During my visit, the sign changed image but also appeared to flicker on occasions, and the natural reaction is to look towards the sign when something like this happens.
9. Paragraph 068 of the PPG¹ identifies illuminated signs which are visible from the road or could distract road users as being some of the main types of advertisements which may cause danger to road users. When taking into account the sign's size, that it fronts onto a main road, is very close to a traffic light controlled pedestrian crossing and is positioned at a height which could be seen clearly by road users, I am satisfied that the changing display (of any duration) could quite easily distract the attention of road users away from the road. Therefore, I conclude that the proposed sign would be harmful to public safety with particular regard to road users.
10. I have taken into account Policy DM17 of the Local Plan² which, amongst other things seeks to ensure that the safety of road users is not compromised and so is material to this main issue. Given I have concluded that the proposal would cause harm in this respect, the proposal conflicts with this policy. The Council's reasons for refusal also refer to a Design Guidance Note³. However, I have not been provided with a copy. Nevertheless, I am satisfied that as this document is guidance which must accord with development plan policy, and as I have found the proposal is contrary to such policy, sight of the Guidance Note would not alter my conclusions.

Visual Amenity

11. There are a variety of fascia signs within the vicinity of the appeal site. Not all of them are positioned and sized to complement the shopfronts they serve. The proposed sign is similarly not well positioned within the overall frame of the fascia but given the variety of signs in the area, this is not in itself overly problematic. However, the depth of the sign means it projects beyond the building's corbels and gives it a greater prominence that draws attention to the fact that it doesn't sit comfortably within the overall frame of the fascia area. The nature of the illumination and levels of luminescence add further prominence to the sign and its lack of compatibility with the building.
12. Overall, and taking into account the above, the sign adversely effects the appearance of the host building and thus causes harm to the visual amenity of

¹ Planning Practice Guidance

² Barnet's Local Plan – Development Management Policies (2012)

³ Barnet Design Guidance Note 1: Advertising and Signs

the surrounding area. I have taken into account Policy DM01 of the Local Plan which, amongst other things, seeks to ensure streets are attractive and development preserves local character and so is material to this main issue. Given I have concluded that the proposal would cause harm in this respect, the proposal conflicts with this policy. The Council's reason for refusal erroneously refers to paragraph 67 of the Framework⁴. However, paragraph 132 of the Framework does seek to ensure that the quality and character of places does not suffer due to poorly sited and designed advertisements. In this particular instance, I agree that the proposal would be contrary to paragraph 132 of the Framework.

Other Matters

13. I understand the appellant's desire to attract sales in the current economic climate and that the advertisement is seen as an important factor in keeping the unit viable. I acknowledge that the Framework supports economic growth and innovation but equally, at paragraph 132 of the Framework, it is clear that in relation to advertisement consent, only matters relating to amenity and public safety can be considered.
14. Although the appellant states that the sign would have a maximum illumination of 1200cd/m², there is no lighting assessment regarding the sign's context or a comparison with other signs in the vicinity, other than providing the maximum illumination levels for a digital screen located some way from the site. Similarly, there is no discussion in relation to the Institute of Lighting Professionals recommended lighting levels, something which I note is referenced in one of the appeals the appellant drew my attention to. Therefore, a proper comparison does not appear to have been undertaken in support of the scheme's type or levels of illumination. Whilst being different is not in itself a reason to dismiss the appeal, as the appellant points out, this sign is innovative and therefore a more detailed assessment regarding matters such as levels of illumination may have been beneficial, particularly given the hours the sign would operate.
15. The appellant suggests that the proposal is ephemeral and will have no lasting impact on the surrounding area. However, I disagree and for the reasons set out above, consider that, notwithstanding the harm to highway safety, the proposal would cause harm to the visual amenity of the wider area that, even for a short period of time, would be unacceptable.
16. I have had regard to the deemed consent provisions within the Advertisement Regulations⁵ but I do not accept the appellants assertion that just because express consent is not required a sign would necessarily be of poor quality. Also, under these provisions a sign would have lower permitted levels of luminance and is likely to be less bulky and so less harmful to the visual amenity of the building and wider area.
17. The Council did not specifically raise concerns regarding the effect of the illumination on the amenity of residents living in the building, above the sign. This is an apparent lack of harm and as such, it is a neutral consideration in any balance. Similarly, the support from neighbours does not mean that the

⁴ National planning policy Framework (2019)

⁵ The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

scheme is acceptable and does not in any event absolve me from making an assessment as to its effects in regard to the main issues of the case.

18. I have had regard to the appeals referenced by the appellant but I do not have the full details of the Eltham case in front of me. However, I observed for myself the larger digital displays at Central House and Chaville Way. However, their context is very different, with the signs positioned high and beyond the traffic lights/junction, so would not represent the same type of distraction and harm as the appeal proposal would.

Conclusion

19. For the reasons given above, I conclude that the display of the sign would be detrimental to public safety and visual amenity. For these reasons, the appeal should be dismissed.

Stewart Glassar

INSPECTOR