
Appeal Decisions

Site visit made on 26 October 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31/01/2022

Appeal A Ref: APP/N5090/W/21/3269735

740-742 High Street, North Finchley, London N12 9QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Martin Stephens (JCDecaux UK Limited) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/5323/FUL, dated 6 November 2020, was refused by notice dated 4 January 2021.
 - The development proposed is described on the application form as 'install a state of the art Communication Hub, as per Specification in Part 2 document'.
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Appeal B Ref: APP/N5090/W/21/3269737

740-742 High Street, North Finchley, London N12 9QD

- 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 Martin Stephens (JCDecaux UK Limited) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/5324/ADV, dated 6 November 2020, was refused by notice dated 4 January 2021.
 - The advertisement proposed is described on the appeal form as '6 sheet illuminated advertisement incorporated into a freestanding communications hub unit, as illustrated in the application documents'.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. The two appeals directly relate to the same appeal site and to each other. I have considered each on its individual merits, however as they raise similar issues, I have combined these cases in a single decision letter.
4. The relevant Regulations regarding advertisements stipulate that control may only be exercised in the interests of 'amenity' and 'public safety'. In determining appeal B, the Council's development plan policies and supplementary guidance are not determinative, but I have taken them into account as a material consideration.

5. For appeal A the Council have described the development as 'Installation of public payphone/communication hub'. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.
6. For appeal B the Council have described the development as 'Installation of 86 inch advertisement located on the rear face of the communications apparatus'. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

Main Issues

7. The main issues for both appeals are:
 - the effect of the proposed development on the character and appearance and visual amenity of the area; and
 - the effect of the proposed development on highway (public) safety.

Reasons

Character and Appearance & Visual Amenity

8. The proposals would be located next to the roadside edge of a relatively wide footpath adjacent to the busy North Finchley High Street. While on my visit I observed that on one side of the appeal site there was a lamppost nearby with a mature tree, lamppost and public payphone kiosk being located further along the high street in that direction. I also observed that on the other side of the appeal site there was a young tree, rubbish bin, another lamppost, and a pedestrian crossing with its associated traffic signals. I also saw that the bin, lamppost, and traffic signals formed a small cluster of street furniture by themselves which was separated from the tree and the other lamppost by sizeable gaps.
9. There would also be a generous gap between the solitary lamppost and the proposals, with there being smaller gaps between the tree, bin, and pedestrian crossing/traffic signals. The proposals would also be visually aligned with the existing solitary lamppost as well as the phone kiosk and other lamppost on the other side. They would not be aligned with the rubbish bin, lamppost, and traffic signals on the opposite side, but this is because the footpath chamfers outwards as it progresses towards the crossing.
10. As a result, and given that the proposals would be visually aligned with most of the street furniture on this stretch of the high street and taking into account the gaps between them and this street furniture plus the fact that there is an existing public payphone further along the pavement, I find that they would not represent a bulky or visually discordant addition to the street scene in this location. Similarly, I consider that they would also not create visual clutter.
11. I therefore conclude that the proposed developments would not materially harm the character and appearance of the area. Accordingly, with regard to appeal A, the proposal would not conflict with the relevant requirements of Policy DM01 of the adopted Barnet Development Management Policies Development Plan Document (DMP), the London Plan and the National Planning Policy Framework (the Framework).

12. Furthermore, with respect to appeal B and for the above reasons, I conclude that the proposal also would not materially harm the visual amenity of the area. In accordance with the Regulations, I have considered the provisions of the development plan and supplementary guidance so far as they are relevant to appeal B. Policy DM01 of the DMP seeks to protect visual amenity as does the DGN and so they are relevant in this case. As I have concluded that the proposed advertisement would not harm visual amenity, it consequently also does not conflict with this policy and guidance.
13. For similar reasons, both proposals would also accord with paragraphs 112 and 130 of the Framework.

Highway Safety

14. Given their locations both proposals would be within the direct line of sight of drivers travelling towards the busy crossing. In addition, the proposed illuminated advertisement would also directly face this oncoming traffic. The proposed communications hub apparatus and advertisement would be extremely close to a pedestrian crossing and the associated traffic signal heads.
15. Consequently, and being mindful of the speed limit and the relevant stopping distances, given their size, orientation, and location I consider it likely that the proposals would be a source of visual distraction for drivers approaching the pedestrian crossing from this direction. Furthermore, even though the advertisement/information images are static they do change intermittently and the fact that the proposed screen introduces a new element to the visual field of nearby drivers means that it would be reasonable to think that it potentially causes more distraction to drivers than what is there currently.
16. In any event, it seems to me to be self-evident that any increase in distraction for a driver is not in the best interests of highway safety. Electronic signs are designed to change display at regular intervals which could also reasonably be an added potential distraction as the eye would be naturally drawn to a changing scenario. It therefore seems valid to conclude that digitally illuminated roadside advertising could be detrimental to performance and pose a distraction for drivers, since that is their purpose. It also seems reasonable to conclude that digital displays, because of their particularly eye-catching nature, have the propensity to potentially cause greater or longer distraction.
17. As a result, even though even though there would only be one lane of traffic moving in this direction, given how close they are to the pedestrian crossing and the associated traffic signals, I consider it very likely that the proposals would have an adverse impact in these regards, nonetheless. Moreover, and given their location very close to the pedestrian crossing and the nearby cluster of street furniture I also consider it likely that the proposals would obstruct path of pedestrians or users of the pavement with disabilities or visual impairments approaching and using this crossing.
18. Therefore, and based on the evidence before me, I conclude that the proposals would have a materially harmful effect on highway (public) safety. Accordingly, in relation to appeal A, the proposal conflicts with the relevant requirements of policy DM17 of the DMP.

19. In accordance with the Regulations, I have considered the provisions of the development plan and supplementary guidance so far as they are relevant to appeal B. Policy DM17 seeks to protect highway (public) safety as does the DGN. As I have concluded that the proposed advertisement would harm highway (public) safety, it would also consequently conflict with this policy and guidance.

Other Matters

20. Chapter 10 of the Framework identifies that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. It also seeks to support the expansion of electronic communications networks. However, these considerations are not without regard to the Framework as a whole. Furthermore, whilst the proposed communication hub would include a defibrillator, data connection point and further services, these merits are only of limited weight in favour of the proposal.

Conclusion

21. Notwithstanding that the proposed developments would not harm the character and appearance and visual amenity of the area they would harm highway safety and would consequently be contrary to the adopted development plan as a whole and there are no material considerations indicating a decision otherwise than in accordance with it. Therefore, for the reasons set out above I conclude that both appeals should be dismissed.

C Coyne

INSPECTOR