
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/21/3269726

61-63 High Road, East Finchley, London N2 8AB

- 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 20/5319/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'.
-

Appeal B Ref: APP/N5090/W/21/3269728

61-63 High Road, East Finchley, London N2 8AB

- 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 20/5320/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'.
-

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 the appeal, the Council's development plan policies are not determinative, but I have taken them into account as a material consideration in determining appeal B.
5. In their decision notices the Council refer to paragraph 67 of the National Planning Policy Framework which would appear not to be relevant to the proposed developments. However, having referred to the Council's evidence I am satisfied that this was a typographical error.

6. 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.
7. 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

8. 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

9. The proposals would be located next to the roadside edge of a footpath beside the busy Finchley High Road. On my site visit I observed that there was an existing cluster of street furniture near to the appeal sites including a lamppost with a parking sign attached to it, an additional bipolar traffic sign, another single poled sign indicating the end of the bus lane, and another monopole speed limit sign. I also saw that there was a traffic junction, with an associated pedestrian crossing and traffic signals further along the High Road. In addition, I observed that there were several high mature trees nearby with some being immediately adjacent to the cluster of street furniture closest to the proposals, one being close by on the other side and others a bit further away beside the traffic junction. I also saw that there was now more street furniture nearby than shown on the photograph montages submitted by the appellant.
10. The Council's Design Note for advertising and signs, seeks advertisements that relate well to their surroundings and avoid visual clutter. Paragraph 112 of the Framework also seeks development that avoids unnecessary street clutter and responds to local character and design standards.
11. Consequently, while they would align with the existing street furniture and not impede or prevent pedestrians from using the footpath, given their size, scale, and visually prominent location so close to elements of the existing cluster of street furniture beside the road, particularly the road signage, I consider that they would represent a bulky addition to the street scene and also create visual clutter on this part of the pavement thereby having a cumulatively adverse impact in this regard, nevertheless.
12. I note that the high mature trees nearby that would provide a visual back drop and/or screen the proposals. However, given their locations they would only fully do this when viewed from one direction meaning that the associated amelioration of the proposals' adverse visual impact would be limited.
13. I therefore conclude that the proposed developments would materially harm the character and appearance of the area. Accordingly, in relation to appeal A, the proposal would conflict with the relevant requirements of Policy DM01 of the adopted Barnet Development Management Policies Development Plan Document

(DMP), Policy CS5 of the adopted Barnet Core Strategy (CS) and the adopted Barnet Design Guidance Note 1: Advertising and Signs (DGN).

14. Furthermore, with respect to appeal B and for the above reasons, I conclude that the proposal would also materially harm the visual amenity of the area. In accordance with the Regulations, I have considered the provisions of the development plan so far as they are relevant to appeal B. Policy DM01 of the DMP, policy CS5 of the CS and the DGN seek to protect visual amenity and so are relevant in this case. As I have concluded that the proposed advertisement would harm visual amenity, it would consequently also conflict with these policies and guidance.
15. Moreover, for similar reasons both proposals would also not comply with paragraphs 112 and 130 of the Framework, which seek well designed places where development would be sympathetic to local character.

Highway Safety

16. Given their locations both proposals would be within the direct line of sight of drivers travelling towards the busy junction and would also block the view of the traffic signage they would be closest to when viewed from this direction. In addition, the proposed illuminated advertisement would also directly face oncoming traffic.
17. 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 junction and pedestrian crossing from this direction. Furthermore, even though the advertisement/information images would be static they would change intermittently and the fact that the proposed screen would introduce a new element to the visual field of nearby drivers means that it would be reasonable to think that it would potentially cause more distraction to drivers using the junction than what is there currently.
18. In any event, it seems to me to be self-evident that any increase in distraction for a driver would not be 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 can 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.
19. As a result, even though they would be located over 30 metres from the traffic signal heads at the junction, I consider it likely that the proposals would have an adverse impact, nonetheless. Therefore, and based on the evidence before me, I conclude that the proposals would have a materially harmful effect on highway (public) safety.
20. Accordingly, in relation to appeal A, the proposal would conflict with the relevant requirements of policy DM17 of the DMP. In accordance with the Regulations, I have considered the provisions of the development plan so far as they are relevant to appeal B. Policy DM17 seeks to protect highway (public) safety and so is relevant in this case. As I have concluded that the proposed advertisement would harm highway (public) safety, it would consequently also conflict with this policy.

Other Matters

21. Having regard to the planning conditions suggested by the appellant, I consider that they would not overcome the harm I have identified to the character and appearance of the area, visual amenity, or highway safety.
22. 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

23. For the reasons set out above I conclude that appeal A and appeal B should be dismissed.

C Coyne

INSPECTOR